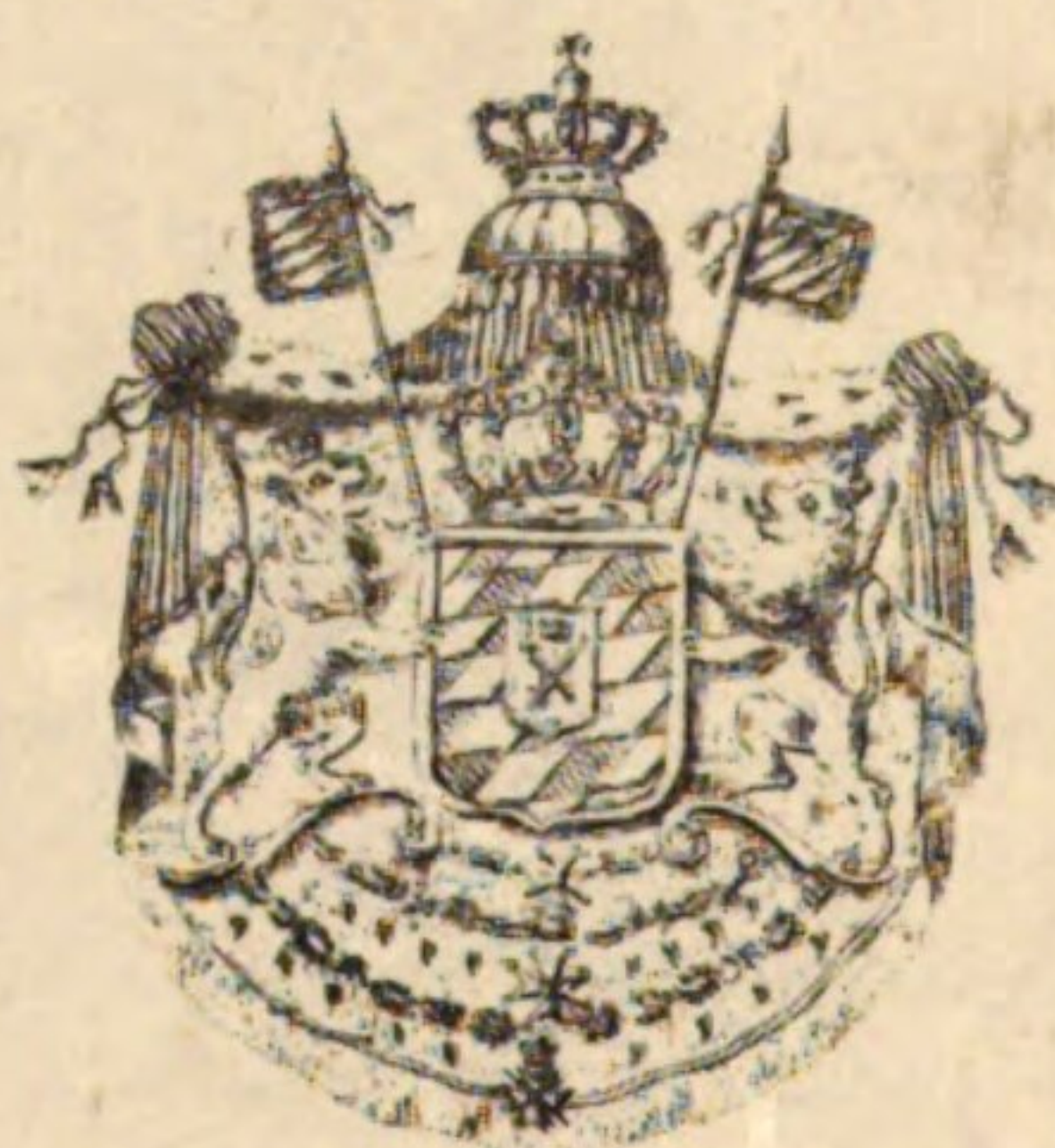


Brit.
13.5m

W. Cobbett



**BIBLIOTHECA
REGIA
MONACENSIS.**

<36632870670013

<36632870670013

Bayer. Staatsbibliothek



THE
Parliamentary History
OF
ENGLAND,

FROM
THE EARLIEST PERIOD

TO
THE YEAR
1803.

FROM WHICH LAST-MENTIONED EPOCH IT IS CONTINUED
DOWNWARDS IN THE WORK ENTITLED,
“ THE PARLIAMENTARY DEBATES.”

VOL. XVII.

A. D. 1771—1774.

L O N D O N :

PRINTED BY T. C. HANSARD, PETERBOROUGH-COURT, FLEET-STREET:
FOR LONGMAN, HURST, REES, ORME, & BROWN; J. RICHARDSON; BLACK,
PARRY, & CO.; J. HATCHARD; J. RIDGWAY; E. JEFFERY; J. BOOKER;
J. RODWELL; CRADOCK & JOY; R. H. EVANS; E. BUDD; J. BOOTH;
AND T. C. HANSARD.

1813.

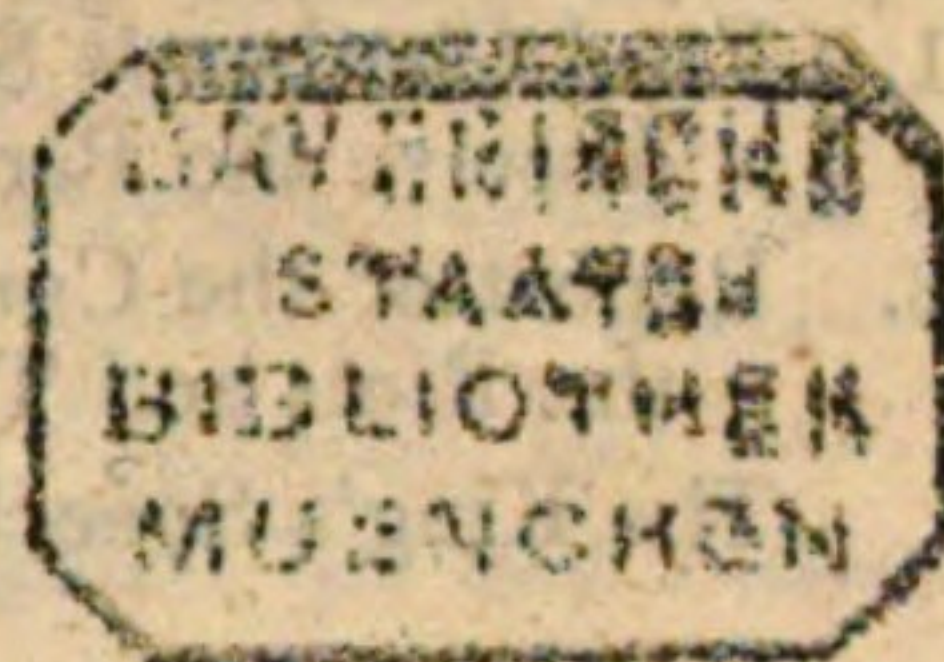
PREFACE

The present Volume brings the *Work* down to the Dis-
solution of the Thirteenth Parliament of Great Britain in 1774.
Upon a careful examination of the former Collection of Debates
during this period, it was found that the Editor, Mr. Abmon,
had not only evaded, in many instances, great partiality, but
that he had—without regard to the character of the speaker
or the importance of the subject—cutted and mutilated almost
every Debate, in the most careless and unaccountable manner.
To remedy these defects, and to render the *Work* as complete
as the nature of it will admit, it has been found necessary
to examine every Parliamentary Journal that was at all likely to
contain authentic materials, and by comparing those materials
with the Journals of both Houses, and in some instances, with
Manuscript Notes taken by Members at times when the Standing
Order for the exclusion of strangers was strictly enforced, the
Editor has been enabled, not only to correct the main presenta-
tions of Mr. Abmon, but to present the reader with many Debates
upon subjects of the highest importance, not to be found in the
Collection above noticed.

LONDON, A. KNOTT, STATIONER,
Dec. 15, 1812.

TABLE OF CONTENTS

TO
VOLUME XVII.



- | | |
|--|--|
| I. PROCEEDINGS AND DEBATES IN BOTH HOUSES OF PARLIAMENT. | VIII. PROTESTS. |
| II. ADDRESSES. | IX. REPORTS. |
| III. KING'S SPEECHES. | X. PERSONS FILLING THE SEVERAL HIGH OFFICES IN CHURCH AND STATE. |
| IV. KING'S MESSAGES. | XI. INDEX OF THE NAMES OF THE SEVERAL SPEAKERS IN BOTH HOUSES OF PARLIAMENT. |
| V. LISTS. | |
| VI. PARLIAMENTARY PAPERS. | |
| VII. PETITIONS. | |

I. PROCEEDINGS AND DEBATES IN BOTH HOUSES OF PARLIAMENT.

FOURTH SESSION OF THE THIRTEENTH PARLIAMENT OF GREAT BRITAIN.—(*Continued from VOL. XVI.*)

1771.		
Feb. 11.	Debates in the Commons on the Bill to repeal a Clause in the Nullum Tempus Act	Page 1
22.	Proceedings on the Durham-Yard Embankment Bill	35
	Protest against the Durham-Yard Embankment Bill	39
Mar. 7.	Debate in the Commons on the Bill for explaining the Powers of Juries in Prosecutions for Libels	43
	PROCEEDINGS IN THE COMMONS AGAINST THE PRINTERS FOR PUBLISHING THE DEBATES	58
28.	Debate in the Commons on Committing Brass Crosby, esq. Lord Mayor of London, and Mr. Oliver, to the Tower.....	119
Apr. 10.	Debate on the Budget	164
11.	Shoreham Voters incapacitating Bill	166
12.	East India Recruiting Bill	169
23.	Motion respecting the Lottery.....	173
25.	Petition from William Allen, the Father of the Young Man murdered during the Riots in St. George's Fields	174
	Debate on Mr. Alderman Sawbridge's Motion for shortening the Duration of Parliaments.....	176
	Debate on the Lottery Bill	182

TABLE OF CONTENTS.

1771.

		Page
Apr. 29.	Proceedings in the Commons on the Divorce Bill	185
30.	REPORT OF THE COMMITTEE OF THE HOUSE OF COMMONS RELATIVE TO THE LATE OBSTRUCTIONS TO THE EXECU- TION OF THE ORDERS OF THE HOUSE	186
	Debate in the Lords on a Motion to expunge the Resolution of the 2nd of February 1770, concerning the Middlesex Election	214
May 1.	Lord Chatham's Speech on moving an Address to the King to dissolve the Parliament	220
8.	Report of the Committee of the House of Commons respecting the Riots and Tumults in the Avenues leading to the House	224
	The King's Speech at the Close of the Session	230

FIFTH SESSION OF THE THIRTEENTH PARLIAMENT OF GREAT BRITAIN.

1772.

Jan. 21.	The King's Speech on Opening the Session	232
	The Lords' Address of Thanks—The King's Answer	233
	The Commons' Address of Thanks—The King's Answer	235
24.	Bill for prohibiting the Exportation of Corn	237
29.	Debate in the Commons on the Number of Seamen	238
31.	Dr. Nowell thanked for his Sermon preached before the Com- mons	245
Feb. 6.	Debate in the Commons on the Clerical Petition, praying to be relieved from Subscription to the 39 Articles	245
12.	Debate in the Commons on a New Writ for Warwick	297
	Debate in the Commons on the Mutiny Bill	298
17.	Debate in the Commons on the Church Nullum Tempus Bill ...	301
18.	Proceedings respecting the Delay of the Monmouth Writ	308
	Standing Order of the House of Commons respecting the Repri- mand of Delinquents at the Bar	311
21.	Debate in the Commons on Dr. Nowell's Sermon, preached be- fore the House on the 30th of January	312
27.	Debate in the Commons on the Bill for securing the Rights of Electors	318
Mar. 2.	Debate in the Commons on a Motion for a Bill to repeal the Observance of the 30th of January	319
	Motion for a New Writ in the room of Mr. Henry Vansittart, supposed to be lost in the Aurora	321
4.	Debate in the Commons on Mr. Alderman Sawbridge's Bill to shorten the Duration of Parliaments	322
30.	Debate in the Commons on the East India Judicature Bill	327
	Debate in the Commons on Lewis's Divorce Bill ..	381
Feb. 20.	The King's Message to both Houses relative to Marriages of the Royal Family.....	383
21.	Copy of the Royal Marriage Bill.....	384
26.	Proceedings in the Lords on the Royal Marriage Bill	386
Mar. 3.	Protest against passing the Royal Marriage Bill.....	391
4.	Debates in the Commons on the Royal Marriage Bill	396
April 1.	Report of the Committee of the Commons on the Lords sending Bills by improper Messengers; and on their Treatment of the Speaker and several Members of the House of Commons.....	424

TABLE OF CONTENTS.

1772.

	Page
April 3. Debate in the Commons on the Bill for the Relief of Protestant Dissenters	431
May 19. Debate in the Lords on the Bill for the Relief of Protestant Dissenters	440
April 7. Mr. Fox's Motion for the Repeal of the Marriage Act.....	446
14. Debate in the Commons on the State of the Criminal Laws inasmuch as they relate to Capital Offences	448
Debate in the Commons on Colonel Burgoyne's Motion for a Select Committee on East India Affairs	453
16. Debate in the Commons on the East India Judicature Bill	464
Debate in the Commons on the Bill to regulate the Importation and Exportation of Corn	475
29. Debate in the Commons on the Bill for encouraging Foreigners to lend Money upon Estates in the West Indies.....	482
30. Standing Order respecting Bills relating to Religion.....	485
May 1. Debate on the Budget	485
5. Debate in the Commons on the Bill to regulate the Elections of Committee-men for the African Company	504
June 3. Debate in the Commons on the Lords' Amendments to a Money Clause in the Corn Bill.....	512
10. The King's Speech at the Close of the Session	515

SIXTH SESSION OF THE THIRTEENTH PARLIAMENT OF GREAT BRITAIN.

Nov. 26. The King's Speech on Opening the Session	516
The Lords' Address of Thanks—The King's Answer	519
The Commons' Address of Thanks—The King's Answer.....	520
Debate in the Commons on appointing a Secret Committee on the Affairs of the East India Company	527
27. A Doubt settled, that the Acceptance of a Government does not vacate a Member's Seat.....	537
Dec. 2. Debate in the Commons on the Navy Estimates	538
3. Report of the Committee of the House of Commons on the Laws in being relative to the Assize of Bread	553
4. Mr. Whitworth objects to the Language in which the Royal Assent is given to Bills	558
7. Debate in the Commons on the Bill to restrain the East India Company from appointing Supervisors in India	559
9. Debate in the Commons on the Expedition against the Caribbs and the Sale of Lands in the Island of St. Vincent.....	568
Papers relating to the Expedition against the Caribbs, and the Sale of Lands in St. Vincent's	575
11. Mr. Dowdeswell's Speech on proposing a Bill for the Relief of the Labouring Poor in Old Age	639
Debate in the Commons on the Bill to encourage Foreigners to lend Money upon Estates in the West Indies	642
Debate in the Commons on a Clause in the Bill for regulating Courts Martial in America	644
14. Debates in the Commons on the Bill to restrain the East India Company from appointing Supervisors in India	646

TABLE OF CONTENTS.

1772.

	<i>Page</i>
Dec. 23. Debate in the Lords on the Bill to restrain the East India Company from appointing Supervisors in India	675
Protest against passing the Bill to restrain the East India Company from appointing Supervisors in India	682

1773.

Jan. 22. Debate in the Commons on the Bill to encourage Foreigners to lend Money upon Estates in the West Indies	686
26. Debate in the Commons on Mr. Alderman Sawbridge's Motion for a Bill to shorten the Duration of Parliaments	690
Feb. 1. Motion for a Bill to regulate Private Mad-houses	696
Motion for a Bill to regulate the Assize of Bread	697
3. Motion for a Bill to prevent the Concealment of the Deaths of Bastard Children	699
Motion for Bills to amend the Act to prevent the Stealing of Dogs; and for the Preservation of Game	700
4. Motion for a Bill to prevent Foreigners being part Owners of British Ships	702
9. Debate in the Commons on a Petition from the Captains in the Navy for an Addition to their Half Pay	705
Report of the Committee of the House of Commons relative to the Pay of Captains of the Navy	717
10. Debate in the Commons on the Papers relating to the Expedition against the Caribbs, and the Sale of Lands in St. Vincent's	722
23. Debate in the Commons on a Motion for a Committee to consider of the Subscription to the Thirty-nine Articles	742
Debate in the Commons on the Bill for the Relief of Protestant Dissenters	759
The Bill for the Relief of Protestant Dissenters rejected by the Lords	790
Mar. 17. Debate in the Commons on a Motion for a Committee on the State of the Linen Trade	796
2. Propositions of the East India Company for a Loan	799
9. Debate in the Commons on the Propositions of the East India Company for a Loan	800
23. Debate in the Commons on the Resolutions for restraining the East India Company's Dividends	813
30. Debate in the Commons on the Third Report of the Secret Committee on the State of the East India Company's Affairs	827
April 5. Debate in the Commons on the Resolutions to let the Territorial Acquisitions remain in the Possession of the East India Company for a limited time	831
22. Bill for regulating Private Mad-houses	837
26. Proceedings on Mr. Wilkes's Complaint against the Deputy Clerk of the Crown	838
27. Resolutions allowing the East India Company to export Teas Duty free	840
Debate in the Commons on the Petition of Mr. Harrison the Inventor of the Time-Keeper	841
28. Debate in the Commons on the Bill to prevent vexatious Removals of the Poor	843
29. Debate in the Commons on the Charitable Donations Bill	845
May 3. Petition of the East India Company against the Resolutions of the House of Commons for restricting the Dividend, &c.	848

TABLE OF CONTENTS.

1773.

	Page
May 3. Debate in the Commons on the Resolutions for the Regulation of the East India Company's Affairs	850
10. Debates in the Commons on General Burgoyne's Motions relating to the Conduct of Lord Clive in India	855
25. Debate in the Commons on the Resolutions relative to the future Participation and Disposal of the Surplus Profits of the East India Company	882
18. Lord North's Speech on presenting the East India Company's Regulation Bill	887
28. Petitions of the City of London, and of the East India Company against the East India Company's Regulation Bill.....	889
Debates in the Commons on the East India Company's Regulation Bill	890
June 10. Proceedings in the Lords on the East India Company's Regulation Bill	904
Protest against the East India Company's Regulation Bill.....	905
17. Further Proceedings in the Lords on the East India Company's Regulation Bill	908
19. Protest against passing the East India Company's Regulation Bill	914
15. Lord North's Speech on Opening the Budget	917
Petition of the East India Company against the East India Loan Bill	921
Debate in the Commons on the Petition of the East India Company, and on the Loan Bill	922
July 1. The King's Speech at the Close of the Session	931

SEVENTH SESSION OF THE THIRTEENTH PARLIAMENT OF GREAT BRITAIN.

1774.

Jan. 13. The King's Speech on Opening the Session	932
The Lords' Address of Thanks—The King's Answer	941
The Commons' Address of Thanks—The King's Answer.....	942
21. Debate in the Commons on the Navy Estimates.....	945
26. Debate in the Commons on the Army Estimates	948
Debate in the Commons on Mr. Roberts's Petition against the Return of Mr. Alderman Bull for the City of London	950
Feb. 4. Proceedings in the Lords on the Question of Literary Property	953
7. Proceedings in the Commons against the Rev. John Horne for a Libel upon the Speaker	1003
15. Mr. Alderman Sawbridge's Motion for a Bill to shorten the Duration of Parliaments	1050
Debate in the Commons on Sir George Savile's Bill to secure the Rights of Electors	1051
16. Debate in the Commons on Mr. Fox's Complaint of a Libel against the Revolution, in the "Public Advertiser," and "Morning Chronicle"	1054
25. Debate in the Commons on the Bill for making the Grenville Act perpetual.....	1061
List of the Members of the House of Commons who voted for and against perpetuating the Grenville Act	1074

TABLE OF CONTENTS.

1774.		<i>Page</i>
Feb. 28.	Proceedings in the Commons on the Booksellers' Copy-Right Bill	1077
Mar. 10.	Proceedings in the Commons on the State of the Linen Trade... 1110	1110
	The King's Message relating to the outrageous Proceedings at Boston in the Province of Massachuset's Bay	1159
	Debate in the Commons on the King's Message	1159
14.	Debates in the Commons on the Boston Port Bill.....	1163
25.	Petition of the Americans in London against the Boston Port Bill	1189
28.	Debate in the Commons on the Bill for regulating the Government of Massachuset's Bay	1192
Apr. 15.	Debate in the Commons on the Bill for the impartial Administration of Justice in Massachuset's Bay	1199
19.	Debate in the Commons on a Motion for the Repeal of the American Tea-Duty Act	1210
21.	Debate in the Commons on the Bill for the impartial Administration of Justice in Massachuset's Bay	1274
22.	Further Debates in the Commons on the Bill for regulating the Government of Massachuset's Bay	1277
25.	Further Debates in the Commons on the Bill for the impartial Administration of Justice in Massachuset's Bay.....	1289
May 2.	Petition of the Natives of America residing in London against the two Bills relating to the Government of Massachuset's Bay.....	1297
	Further Debate in the Commons on the Bill for regulating the Government of Massachuset's Bay	1300
6.	Further Debate in the Commons on the Bill for the impartial Administration of Justice in Massachuset's Bay.....	1316
11.	Protest against passing the Bill for regulating the Government of Massachuset's Bay	1321
5.	Debate in the Commons on a Motion for Relief to the Clergy in the Matter of Subscription to the 39 Articles	1325
10.	Resolutions in the Commons respecting the State of the Gold Coin	1327
18.	Debate in the Commons on the Budget	1330
	Debate in the Lords on the Bill for the impartial Administration of Justice in Massachuset's Bay	1350
	Protest against passing the Bill for the impartial Administration of Justice in Massachuset's Bay	1351
27.	Debate in the Lords on the Bill for Quartering Troops in North America.....	1353
	Proceedings in the Commons on the Bill for the Government of Quebec	1357
June 2.	Debate in the Lords on the Booksellers' Copy-Right Bill.....	1399
17.	Debate in the Lords on the Commons' Amendments to the Quebec Government Bill	1402
22.	The King's Speech at the Close of the Session	1407

II. ADDRESSES.

1772. Jan. 21.	Of the Lords, on the King's Speech	233
----------------	--	-----

TABLE OF CONTENTS.

<i>[Addresses continued.]</i>	<i>Page</i>
1772. Jan. 21. Of the Commons, on the King's Speech	235
Nov. 26. Of the Lords, on the King's Speech	519
Of the Commons, on the King's Speech	525
1774. Jan. 13. Of the Lords, on the King's Speech	941
Of the Commons, on the King's Speech	943

III. KING'S SPEECHES.

1771. May 8. At the Close of the Session	230
1772. Jan. 21. On Opening the Session	232
June 10. At the Close of the Session	515
Nov. 26. On Opening the Session	516
1773. July 1. At the Close of the Session	931
1774. Jan. 13. On Opening the Session	932
June 22. At the Close of the Session	1407

IV. KING'S MESSAGES.

1772. Feb. 20. Relative to Marriages of the Royal Family	383
1774. Mar. 7. Relating to the outrageous Proceedings at Boston in the Province of Massachuset's Bay	1159

V. LISTS.

1772. Feb. 6. List of the Minority in the House of Commons on the Clerical Petition, praying to be relieved from Sub- scription to the 39 Articles.....	296
1774. Feb. 25. List of the Majority and Minority in the House of Commons on bringing in the Bill for perpetuating the Grenville Act	1074

VI. PARLIAMENTARY PAPERS.

1772. Feb. 21. Copy of the Royal Marriage Act	384
Dec. 23. Papers relative to the Expedition against the Caribbs, and the Sale of Lands in the Island of St. Vincent ...	575
1774. Feb. 11. Copy of the Rev. John Horne's Libel upon the Speaker of the House of Commons	1006
16. Copy of the Libel against the Revolution, complained of by Mr. Fox	1054

VII. PETITIONS.

1771. Apr. 25. Of William Allen, the Father of the Young Man mur- dered during the Riots in St. George's Fields	174
1772. Feb. 6. Of certain of the Clergy of the Church of England and of the Professors of Civil Law and Physic, relative to the Matter of Subscription to the 39 Articles	251

TABLE OF CONTENTS.

<i>Petitions continued.]</i>		<i>Page</i>
1772.	Dec. 14. Of the East India Company on the Bill to restrain the Company from appointing Supervisors in India	646
1773.	Feb. 9. Of the Captains in the Navy, for an Addition to their Half-pay	706
	Mar. 3. Of certain Protestant Dissenting Ministers against the Dissenters' Relief Bill	763
	May 3. Of the East India Company against the Resolutions of the House of Commons for restricting the Dividend, &c.	848
	28. Of the City of London and of the East India Company against the East India Company's Regulation Bill ...	889
	June 8. Of the Proprietors of East India Stock, against the East India Company's Regulation Bill	893
	15. Of the East India Company against the East India Loan Bill	921
1774.	Feb. 28. Of the London Booksellers respecting Copy-Right	1077
	Mar. 25. Of the Natives of America in London against the Boston Port Bill	1189
	May 2. Of the Natives of America in London against the Bills relating to the Government of Massachuset's Bay ...	1297

VIII. PROTESTS.

1771.	May 1. Against the Durham Yard Embankment Bill	39
1772.	Mar. 3. Against passing the Royal Marriage Act	391
	Dec. 23. Against passing the Bill to restrain the East India Company from appointing Supervisors in India	682
1773.	June 11. Against the East India Company's Regulation Bill	905
	19. Against passing the East India Company's Regulation Bill	914
1774.	May 11. Against passing the Bill for regulating the Government of Massachuset's Bay	1320
	18. Against passing the Bill for the impartial Administration of Justice in Massachuset's Bay	1351

IX. REPORTS.

1771.	Apr. 30. Report of the Committee of the House of Commons relative to the late Obstructions to the Execution of the Orders of the House	186
	May 8. Report of the Committee of the House of Commons respecting the Riots and Tumults in the Avenues leading to the House	224
1772.	April 1. Report of the Committee of the Commons on the Lords sending down Bills by improper Messengers; and on their Treatment of the Speaker and several Members of the House of Commons	424
	Dec. 3. Report of the Committee of the House of Commons on the Laws in being relative to the Assize of Bread ...	553
1773.	Mar. 5. Report from the Committee of the House of Commons relative to the Pay of Captains in the Navy	717

TABLE OF CONTENTS.

X. OFFICERS OF STATE.

PERSONS FILLING THE SEVERAL HIGH OFFICES IN CHURCH
AND STATE FROM FEBRUARY 1771 TO JUNE 1774.

ARCHBISHOPS.

1768.	Archbishop of Canterbury	Hon. Frederick Cornwallis.
1761.	- - - - - York	Robert Drummond.

BISHOPS.

1769.	Bishop of St. Asaph	Jonathan Shipley.
1768.	- - - - - Bangor	John Ewer.
1743.	- - - - - Bath and Wells	Edward Willes.
1761.	- - - - - Bristol	Thomas Newton.
1754.	- - - - - Chichester	Sir William Ashburnham, bart.
1771.	- - - - - Coventry and Litch- field	Brownlow North.
1766.	- - - - - St. David's	
1771.	- - - - - Ely	Edmund Keene.
1761.	- - - - - Exeter.....	Frederick Keppel.
1760.	- - - - - Gloucester	William Warburton.
1746.	- - - - - Hereford	Lord James Beauclerk.
1769.	- - - - - Landaff	Shute Barrington.
1761.	- - - - - Lincoln	John Green.
1764.	- - - - - London	Richard Terrick.
1761.	- - - - - Norwich	Philip Yonge.
1766.	- - - - - Oxford.....	Robert Lowth.
1764.	- - - - - Peterborough	John Hinchcliffe.
1756.	- - - - - Rochester	Zachariah Pearce.
1766.	- - - - - Salisbury	John Hume.
1761.	- - - - - Winchester	John Thomas.
1759.	- - - - - Worcester	James Johnson.
1768.	- - - - - Carlisle	Edmund Law.
1771.	- - - - - Chester	William Markham.
1771.	- - - - - Durham	John Egerton.

LORD HIGH CHANCELLOR.

1771.	Jan. 23.	Henry, Lord Apsley.	Succeeded as Earl Bathurst in 1775.
-------	----------	---------------------	-------------------------------------

PRINCIPAL SECRETARIES OF STATE.

1771.	Jan. 22.	George, Earl of Halifax, vice the Earl of Sandwich.
	June 12.	Henry, Earl of Suffolk and Berkshire, vice Lord Halifax.
1772.	Aug. 14.	William, Earl of Dartmouth, Colonies.

TABLE OF CONTENTS.

SPEAKER OF THE HOUSE OF COMMONS.

1770. Jan. 22. Sir Fletcher Norton, knt.

COMMISSIONERS FOR EXECUTING THE OFFICE OF LORD HIGH TREASURER OF ENGLAND.

1770. Feb. 10. Frederick, Lord North, Chancellor of the Exchequer.
George Onslow, esq.
Charles Jenkinson, esq.
Jeremiah Dyson, esq.
Charles Townshend, esq.

1773. Jan. 9. Frederick, Lord North, Chancellor of the Exchequer.
George Onslow, esq.
Jeremiah Dyson, esq.
Charles Townshend, esq.
Hon. Charles James Fox.

1774. Mar. 12. Frederick, Lord North, Chancellor of the Exchequer.
George Onslow, esq.
Charles Townshend, esq.
Francis Seymour Conway, Viscount Beauchamp.
Charles Wolfran Cornwall, esq.

MASTER OF THE ROLLS.

1764. Dec. 4. Sir Thomas Sewell, knt.

ATTORNEY GENERAL.

1771. Jan. 23. Edward Thurlow, esq. afterwards Lord Thurlow.

SOLICITOR GENERAL.

1771. Jan. 23. Alexander Wedderburn, esq. afterwards Lord Loughborough.

XI.

I N D E X

OF THE NAMES OF THE SEVERAL SPEAKERS IN BOTH
HOUSES OF PARLIAMENT, FROM FEBRUARY 11, 1771, TO JUNE 22, 1774.

Apsley, Lord [Lord Chancellor] 389, 681, 1001, 1400. Astley, Sir Edward, 1010, 1060, 1282. Attorney General, <i>see</i> Thurlow. Aubrey, John, 1067. Bacon, Anthony, 1186. Bagot, Sir William, 3, 762, 766, 847.	Barré, Isaac, 78, 150, 241, 406, 461, 569, 572, 709, 723, 724, 737, 739, 824, 867, 1046, 1066, 1163, 1169, 1178, 1201, 1272, 1305, 1319, 1336, 1361, 1365, 1387, 1393. Barrington, [William Wildman] Lord, 175, 300, 571, 645, 740. Beauchamp, Lord, [Francis Seymour, afterwards Marquis of Hertford] 1109, 1144, 1270, 1276.
--	---

I N D E X.

- Bull, Richard, 950, 1023.
 Buller, John, 238, 552, 945, 1272.
 Burgoyne, John, 453, 534, 855, 872, 880, 1069, 1271.
 Burke, Edmund, 44, 156, 175, 212, 275, 304, 433, 461, 479, 480, 498, 507, 513, 547, 567, 648, 668, 764, 770, 808, 810, 811, 818, 830, 834, 839, 842, 846, 1041, 1060, 1071, 1088, 1101, 1102, 1103, 1104, 1160, 1161, 1182, 1215, 1270, 1292, 1314, 1326, 1339, 1366, 1385, 1391, 1392, 1393, 1397.
 Burke, William, 156, 810, 1024, 1292, 1383.
 Burrell, Dr. William, 521.
 Byng, George, 1175, 1194, 1275, 1310.
 Calvert, Nicholson, 791.
 Camden, [Charles Pratt] Lord, 389, 992, 1401.
 Campbell, Lord Frederick, 796, 1144.
 Carmarthen, Marquis of, [afterwards Duke of Leeds] 1308.
 Carnac, John, 667, 854.
 Cavendish, Lord John, 19, 111, 270, 404, 660, 816.
 Cavendish, Henry, 114, 451, 793.
 Chatham, [William Pitt] Earl of, 216, 220, 440, 1353, 1402.
 Clare, [Robert Nugent] Lord, 404, 434, 480, 1160, 1271.
 Clavering, Sir Thomas, 478.
 Clive, Lord, 323, 667, 828, 851, 866, 874.
 Colebrooke, Sir George, 463, 812.
 Conway, Henry Seymour, 109, 114, 1151, 1162, 1176, 1279, 1311.
 Cooper, Grey, 704, 824, 1029, 1185, 1400.
 Cornwall, Charles Wolfran, 16, 182, 240, 464, 467, 497, 541, 543, 547, 552, 733, 749, 866, 922, 1213, 1293.
 Cox, Richard Hippisley, 319, 327.
 Crauford, John, 653.
 Crosby, Brass, 104, 120, 157.
 Cust, Peregrine, 505.
 Dempster, George, 461, 474, 559, 650, 657, 664, 704, 807, 816, 828, 884, 925, 1015, 1088, 1154, 1167, 1175, 1316, 1342.
 Denbigh, [Basil Fielding] Earl of, 1400.
 Dolben, Sir W. 314, 318, 437, 755, 789.
 Dowdeswell, William, 43, 72, 112, 119, 164, 242, 399, 479, 491, 544, 551, 552, 640, 648, 690, 744, 792, 806, 829, 833, 898, 946, 947, 949, 1015, 1038, 1059, 1160, 1168, 1179, 1198, 1289.
 Dunning, Joseph, 4, 38, 139, 294, 967, 1033, 1070, 1086, 1291, 1300, 1359, 1396.
 Duntze, Mr. 695.
 Dyson, Jeremiah, 5, 12, 38, 169, 648, 762, 828, 865, 925.
 Elliot, Sir Gilbert, 297, 712, 1071, 1288.
 Ellis, Welbore, 102, 118, 120, 125, 157, 403, 467, 546, 573, 743, 745, 1070, 1181, 1278.
 Feilde, Paul, 845, 1086, 1090, 1107.
 Fitzmaurice, Thomas, 261.
 Folkestone, Viscount, [afterwards Earl of Radnor] 316, 410, 731, 1089, 1106.
 Fox, Stephen, 320, 1064, 1194, 1307.
 Fox, Charles James, 22, 115, 145, 163, 169, 213, 293, 307, 405, 451, 503, 541, 713, 749, 811, 902, 951, 1013, 1018, 1020, 1045, 1048, 1054, 1058, 1065, 1101, 1103, 1109, 1177, 1179, 1213, 1270, 1288, 1295, 1313, 1362, 1390, 1399.
 Frankland, Sir Thomas, 1275.
 Freeman, Thomas Edwards, 319, 478, 1065.
 Fuller, Rose, 450, 466, 479, 702, 704, 750, 927, 1152, 1170, 1176, 1277, 1320.
 Gascoigne, Bamber, 479, 1037, 1173.
 Germaine, Lord George Sackville, 264, 560, 573, 662, 666, 735, 1047, 1070, 1154, 1162, 1194, 1312.
 Gilbert, Thomas, 793.
 Glynn, John, 131, 1024, 1053, 1362, 1395.
 Graves, William, 1087.
 Grenville, James, 1064.
 Grey, Thomas De, 111, 1005, 1026.
 Griffin, Sir John Griffin, [afterwards Lord Howard of Walden] 153.
 Guernsey, Lord, [afterwards Earl of Aylesford] 942.
 Harbord, Harbord, 448.
 Harley, Thomas, 309, 559, 651.
 Hawke, Martin B. 244.
 Hay, Dr. George, 295.
 Herbert, Henry, 404.
 Hinchinbrooke, Lord [afterwards Earl of Sandwich] 235.
 Houghton, Sir Henry, 295, 432, 438, 759, 788, 790.
 Hopkins, Benjamin, 795, 950, 953.
 Howe, Lord, 310, 706, 719.
 Hussey, Richard, 529, 542, 553, 651.
 Jenkinson, Charles, [created Lord Hawkesbury in 1786, and Earl of Liverpool in 1796] 269, 496, 650, 752, 816, 828, 830, 930, 1176, 1282.
 Johnstone, Governor, 19, 300, 366, 473, 535, 562, 659, 811, 815, 885, 924, 929, 1072, 1105, 1188, 1281, 1345, 1391.
 Landaff, [Shute Barrington] Bishop of, 441.
 Leigh, Richard, 14.
 Lockhart, Thomas, 699.
 London, [Dr. Richard Terriek] Bishop of, 441.
 Lord Chancellor, see Apsley.
 Lyttelton, [Thomas, second] Lord, 1002, 1400, 1404.
 Mackworth, Herbert, 381, 479, 534, 697, 1363, 1394.

INDEX.

- Mawbey, Sir Joseph, 109, 110, 113, 115, 478, 953, 1013, 1019.
- Meredith, Sir William, 1, 25, 153, 245, 295, 439, 459, 506, 511, 715, 742, 757, 762, 784, 790, 844, 856, 873, 902, 930, 1015, 1150, 1302, 1325.
- Molesworth, Sir John, 1063.
- Montague, Frederick, 315, 319, 433, 438, 753, 1272.
- Montague, William A. [second son to the Earl of Sandwich] 1173.
- Newdigate, Sir Roger, 254, 313, 316, 320, 432, 438, 439, 743, 761, 763, 783, 1325.
- North, Frederick, Lord, [afterwards Earl of Guildford] 17, 72, 106, 119, 163, 174, 175, 241, 272, 304, 319, 460, 474, 478, 485, 497, 504, 527, 533, 535, 542, 543, 545, 553, 561, 569, 574, 674, 706, 707, 709, 711, 715, 720, 721, 724, 725, 738, 756, 797, 801, 809, 812, 813, 817, 829, 831, 840, 842, 866, 867, 883, 884, 888, 903, 918, 926, 927, 931, 943, 945, 946, 947, 1013, 1014, 1019, 1023, 1030, 1039, 1047, 1052, 1058, 1063, 1145, 1163, 1171, 1176, 1178, 1186, 1189, 1192, 1199, 1273, 1274, 1280, 1315, 1326, 1330, 1358, 1364, 1384, 1389, 1392, 1394.
- Norton, Sir Fletcher, [the Speaker] 4, 12, 110, 315, 381, 420, 422, 537, 704, 823, 1006, 1194.
- Oliver, Richard, 118, 124, 692, 794.
- Ongley, Robert Henley, 449, 514.
- Onslow, George, 59, 71, 75, 304, 433, 785, 952, 1025, 1026, 1048, 1087, 1089, 1108.
- Page, Francis, 756, 759, 770, 789.
- Pennant, Richard, 1211.
- Phipps, Constantine John, [afterwards Lord Mulgrave] 5, 7, 317, 434, 439, 481, 503, 707, 720, 1019, 1028, 1045, 1048, 1059, 1069, 1169, 1177, 1212, 1293, 1296.
- Pitt, Thomas, [afterwards Lord Camelford] 268, 294, 404.
- Popham, Alexander, 314, 1037.
- Pownall, Governor, 118, 245, 299, 301, 476, 512, 553, 644, 698, 1110, 1146, 1186, 1199, 1282.
- Prescott, George, 793, 797, 942.
- Pulteney, William, 242, 471, 483, 538, 642, 688, 721, 793, 946, 1320, 1384.
- Radnor, [William Pleydell Bouverie.] Earl of, 441.
- Rice, George, 648, 1159, 1211.
- Richmond, [Charles Lennox] Duke of, 214, 678, 680, 681, 1351.
- Rigby, Richard, 952, 1072, 1286, 1310.
- Rochford, [William Henry Nassau] Earl of, 679.
- Rockingham, Marquis of, 388, 1350.
- Rumbold, Thomas, 328, 561.
- Saunders, Sir Charles, 721.
- Savile, Sir George, 5, 24, 108, 121, 130, 156, 175, 213, 240, 289, 318, 464, 478, 711, 789, 841, 881, 1051, 1277, 1316, 1326.
- Sawbridge, John, 176, 214, 297, 298, 317, 322, 690, 945, 951, 1005, 1011, 1014, 1018, 1023, 1025, 1027, 1050, 1167, 1186, 1189, 1274, 1276, 1318.
- Seymour, Henry, 13, 113, 173, 301, 307, 402, 537.
- Skynner, John, 303, 1294, 1296.
- Solicitor General, *see* Wedderburn.
- Speaker, The, *see* Sir Fletcher Norton.
- St. John, John, 898, 942, 1309.
- Stanley, Hans, 257, 731, 1175, 1292, 1303.
- Sullivan, Lawrence, 468, 560, 815, 827, 828, 854, 930.
- Sutton, Sir Richard, 735, 756, 873, 928, 1108, 1288, 1295.
- Thurlow, Edward, [in 1778 created Lord Thurlow] 136, 468, 868, 954, 968, 1034, 1072, 1086, 1104, 1313, 1361, 1366, 1395.
- Townshend, Alderman James, 38, 121, 134, 327, 692, 1031.
- Townshend, Thomas, 274, 303, 310, 315, 460, 466, 503, 563, 572, 574, 697, 702, 716, 723, 724, 728, 740, 754, 795, 837, 949, 952, 1056, 1060, 1063, 1271, 1293, 1304, 1357, 1364, 1389, 1390, 1393.
- Trecothick, Alderman, 106, 568.
- Turner, Charles, 152.
- Van, Charles, 943, 949, 1054, 1178.
- Vane, Frederick, 12, 661, 867.
- Wallace, James, 21.
- Walsingham, Boyle, 313.
- Wedderburn, Alexander, [in 1780 created Lord Loughborough, and in 1801 Earl of Rosslyn] 112, 114, 294, 310, 469, 561, 845, 847, 848, 862, 873, 880, 926, 963, 1028, 1031, 1035, 1071, 1087, 1160, 1206, 1269, 1292, 1372, 1397.
- Whitworth, Richard, 158, 212, 382, 466, 512, 558, 568, 659, 700, 702.
- Williams, John, 509.
- Wray, Sir Cecil, 4, 12, 214, 844.
- Yonge, Sir George, 1065, 1152, 1281.

Parliamentary History.

11 GEORGE THE THIRD, A. D. 1771.

FOURTH SESSION
OF THE
THIRTEENTH PARLIAMENT
OF
GREAT BRITAIN:

[Continued from Vol. XVI.]

*DEBATES in the Commons on the Bill to repeal a Clause in the Nullum Tempus Act.** February 11, 1771. Sir W. Meredith moved for leave "to bring in a Bill to repeal a Clause in the Nullum Tempus Act, which protects such Rights, Titles, or Claims, under any Grants or Letters Patent from the Crown, as are prosecuted with effect, within a certain time therein limited." Lord Charles

* "It will be scarcely necessary to remind our readers, that the Nullum Tempus Bill, or the act for quieting the possessions of the subject against all pretences of concealment whatsoever, which was first brought into the House in 1768, and passed in the following year, owed its rise to a grant from the treasury to sir James Lowther, of a considerable estate and very extensive royalties, which had been granted by king William to the Portland family, and had been in their possession from that time. A clause had been inserted in that Act, by which the grantees or lessees of the crown were allowed a year from its taking place, for the prosecution of their claims; and though that Bill had been brought in and supported by the duke of Portland's friends, and his particular case had shewn the necessity and was the immediate origin of it, no opposition was made to the clause in question. The general opinion indeed at that time seems to have been that the matter in contest had been only thrown out to answer certain election purposes, which being now over, it would no more be thought of; especially as the principle, upon which such claims were founded, had been just condemned, in the most public manner, by an united act of the whole legislature.

Spencer seconded the motion. They observed, that this Clause had had a very different effect than was intended by parliament, which had not meant that new claims should be set up, and hundreds disturbed in their possessions by vexatious suits at law, as was the present case in Cumberland; that if the law was a good one, it ought to extend to all his Majesty's subjects; if a bad one, it ought to have extended to none.

It was answered by the ministerial gentlemen, that on the introduction of the Nullum Tempus Bill, a dispute had arisen, on account of a grant to sir James Lowther, at the expence of the duke of Portland; that the gentlemen who brought in the Bill, to shew their impartiality and zeal for the general service of their

"However plausible these opinions were, the consequence shewed they were ill-founded. A most expensive suit was not only commenced against the duke of Portland, but the whole county of Cumberland was thrown into a state of the greatest terror and confusion: 400 ejectments were served in one day; and though a great many of the causes were afterwards for various reasons withdrawn, it was notwithstanding said, some small time before the matter was debated in the House of Commons, that there were fifteen bills in equity, and 225 suits at common law, then open. Nor were these mischiefs confined to those whose titles to their lands were immediately derived from the Portland family; for as the royalties were very extensive, and their ancient limits and jurisdiction undefined; no length of prescription could afford security, nor goodness of title prevent the consequences of a ruinous law-suit, and the necessity of being obliged to expose it to public discussion. In these circumstances singled out by that clause from the rest of the nation, and exposed as victims to satiate the last rage of exploded prerogative, supported besides by the formidable influence of power, and the prevailing weight of overgrown riches, the terror was great, and almost universal, through all that part of the kingdom." Annual Register.

[B]

[VOL. XVII.]

country, had consented that this affair should not be brought into dispute, and therefore consented to the clause in question; the operation of which was, to preserve the right of a legal determination of sir James Lowther's claim. This clause, therefore, became the faith of parliament, and, in consequence of it, sir James Lowther had prosecuted his right; that it would be an infamous breach of this faith, to have drawn him into a law-suit, and now pass an act which should at once determine his claim; that if, instead of re-pealing, they would only move "to explain and amend," (which was moved by Mr. Pulteney), sir James would drop all the causes he had commenced against those who had derivative titles from the duke of Portland, and leave alone the cause to be determined between the principals; and if this was not agreed to, it would seem that the Nullum Tempus Act had been obtained under false suggestions, only to draw in the consent of parliament, by giving time for claims, and then, in a year or two, repealing what they themselves had consented to.

To this it was answered, That the duke of Portland having been guilty of no crime, it seemed hard to lay a prosecution on him, and no man else;—that it was not intended to make any such bargain at passing the Act, as no more was meant than that party should not interrupt the passing the Bill by any introduction of private disputes; that many who had consented to the Bill would also have been against the clause in question, if it had been separately debated; that if Sir James Lowther had been put to any extra expences in consequence of the claim, he ought to be reimbursed.

Then the question being put, That the word 'repeal' stand part of the question; the House divided: the Yeas went forth.

Tellers.

YEAS	{ Sir William Meredith	} 152
	{ Mr. Byng - - - - -	
NOES	{ Mr. Jenkinson - - - - -	} 123
	{ Mr. Burrell - - - - -	

So it was resolved in the affirmative. Then the main question being put, leave was given to bring in the Bill.

Feb. 20. The Bill was read a second time.

Sir William Bagot opposed its being committed. He said, it was a most infa-

mous attempt to subvert the constitution; that the law was the only title every man had to his estate, and the means of defending that title was, and ought to be the most sacred object of parliament. He compared this Bill to what had been done in France, in the case of the duke d'Aguillon, where process of a criminal nature was stopped by order of the king; that the present attempt to stop a law suit, depending in the courts, was so much worse, as the former was only of a criminal nature, the present a right between man and man, in which power had no concern, and which had never been stopped in any kingdom. He called on the minister, to exert the whole of his influence, due or undue, to stop this Bill, quoting,

"Flectere si nequeo Superos Acheronta movebo;" which he translated, "if gentlemen of property will not interfere, call on the other part of the House;" for, said he, I would invoke even hell in this cause—earth—heaven—hell, all ought to be invoked to stop this infamous Bill. He appealed to the Speaker, to know of him what would be the consequence of this Bill passing into a law.

The Speaker told him, it was what, as Speaker, he was not to answer; that it was not the business of a Speaker to give opinion, except in matters of form and order; that, in the present case, as the operation of the Bill was manifest, there could be no reason to answer a question which no one in the House could doubt of.

Almost every gentleman in the opposition who spoke, gave sir William a trimming for calling on the ministry to exert their influence; and a good deal of laugh ensued on his calling them the powers of Acheron. Mr. Burke applied the quotation to Juno, who made use of those words in Virgil, hoping that Juno had not called for those powers on that occasion.

Mr. Dunning said, the hon. gentleman had made his first application to the *superi*, or gentlemen of his own description; those, on a former occasion had failed him, and he trusted would do so again. The *inferi* or ministry from Acheron, had indeed supported him in the present debate with all their powers, but powers too weak to encounter the others with justice and equity on their side; but, said he, as the hon. gentleman has not succeeded in his application to heaven or hell, he has applied to a third, even to you, Mr. Speaker.—This occasioned a loud laugh.

Sir Cecil Wray said, though clear in

opinion, that no man ought to be excepted from the good of the Nullum Tempus Bill, yet he thought sir James Lowther entitled to all the expences he had incurred in consequence of this clause by commencing actions; that as no provisions of that sort were in the Bill before the House, and as he would not wish a national justice to one man should be purchased at the expence of a national injustice to another, he should be against committing it.

Mr. Phipps answered, that the Committee was the proper place for introducing such a clause; and that if the hon. gentleman would produce such a clause at the Committee, he would second him; and if the clause was rejected, would vote against the Bill at the third reading.

Sir George Savile denied any bargain being made at the passing the Nullum Tempus Bill on the introduction of the clause; that the duke of Portland was unwilling that the public good of the Bill should meet with any obstructions on his account; and therefore his case was excepted in that Bill, but did, by no means, preclude himself, or friends, from attempting a particular remedy afterwards.

The question was put, that the said Bill be committed. The House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Montagu - - - }	155
	{ Mr. Hotham - - - }	
NOES	{ Mr. Vane - - - }	140
	{ Mr. Dundas - - - }	

So it was resolved in the affirmative.

Feb. 27. The order of the day being read, for the House to resolve itself into a Committee of the whole House, upon the said Bill,

Sir Wm. Meredith moved, that the Speaker do now leave the chair; upon which the following debate* ensued:

Mr. Jeremiah Dyson:

Sir; we are now entering into a debate of the most solemn and serious question that I ever remember to have

* From a pamphlet published in 1771, entitled "The Debate in the House of Commons, on Wednesday, February 27, 1771, on the Bill to repeal a Clause in the Act for quieting the possession of the subject, commonly called the Nullum Tempus Act." The Report of the Speeches was taken by sir William Meredith, assisted by the hon. Constantine Phipps, afterwards lord Mulgrave.

been agitated in this House. For the extent of the proposition goes to this: whether we shall suffer the law of the land to proceed in its usual and ancient course, according to the known certain and established rules of judicature, or whether we shall interpose the authority and controul of parliament, in order to substitute a new, unprecedented, unconstitutional mode of trial, in the room and in subversion of that, which has been founded in the policy, and confirmed by the wisdom of past ages, and which our ancestors hoped to have delivered down safe and inviolable to all future times: for, however gentlemen may attempt by their powers of eloquence to disguise this proposition, it is clearly this; that, in the instance of a suit now depending in the courts below, this House shall send forth a new rule of decision, in order to oblige the courts of Westminster-hall to decide in a different manner from what they must decide, provided no such rule was sent down to them. I affirm this to be the case, Sir, because the gentlemen who bring in this Bill assume the proposition, that the courts of Westminster-hall must of themselves decide in favour of sir James Lowther, against the duke of Portland; for, if they could at all rely on the justness of their cause, this Bill would, in their own opinions, be unnecessary. The design then is to compel the courts of law to decide in favour of the duke of Portland, which courts, if not put under such controul, must decide in favour of sir James Lowther. I have the strongest reason for stating the suit against the duke of Portland, as the only foundation for the Bill, because there is no other stated. On what principle of equity, justice, law, or the constitution, we can proceed on such a basis, I own, I cannot discover. I aver, that the proceeding, as far as my knowledge goes, is totally unprecedented; for although gentlemen have named one precedent, as they are pleased to call it, which is that of the legislature not only indemnifying persons who have neglected to qualify, but stopping such suits as are commenced on such occasions; yet I am sure no gentleman can be serious in comparing a forfeiture under a penal statute, to a civil suit commenced for a landed estate, under a right founded in common law, and prosecuted under the immediate sanction and direction of parliament. Indeed, Sir, I wish gentlemen would consider the extensive consequences of this proceeding. For my own part, I feel myself

bound in conscience, as a candid, honest, and impartial member of parliament, to give my vote against any further proceeding in this business, and therefore I shall dissent from the motion, that you do now leave the chair.

The Hon. *Constantine Phipps* :

Sir; I shall, I hope, to the satisfaction of this House, prove how groundless all the objections are that have been made to this Bill: it has been treated as a breach of the faith of parliament, a violation of justice, and an invasion of private property. Nothing more, however, is necessary to refute these groundless charges, than to examine them. I had indeed hoped, that this day's debate would have produced some fresh arguments, more worthy the attention of this House, and that these would have been confined to their proper place, I mean the news-papers, where they have, for these three days, been industriously propagated under fictitious names, and mixed with many gross falsehoods, to prejudice the minds of the people: they have also appeared in the same company in an anonymous Case, industriously, partially, and secretly conveyed into the hands of some members of this House, by whom, and for what purposes, I do not pretend to say. [Here he made many observations on the falsehoods and misrepresentations in the Case.] I cannot however omit this opportunity of mentioning the very different conduct of the friends of this Bill. They have not filled papers with misrepresentations of a matter depending in this House. Conscious of the merits of that cause, which they have espoused for its justice only, they have been content fairly and openly to offer their arguments in the course of two debates to the House; every man staking his character upon the veracity of his assertions, and the propriety of those motives upon which he grounds his vote. The hon. gentleman who spoke last, having thought proper to adopt these opinions, and to enforce them with his usual ingenuity, it becomes necessary to contradict and disprove them. He tells us, Sir, it would be a breach of the faith of parliament: because, two years ago, in taking away the *nullum tempus* rights of the crown, you gave, by this clause, a right to the grantee of the crown to prosecute, and directed him how to proceed; that, by passing this Bill, you would take away the power you then gave, and say to the grantee,

" Though you have done what we directed, you shall not have what we promised." — To answer this, it will be necessary to state the case in more accurate and precise terms, than would have been convenient for the hon. gentleman's purpose. Parliament, as any man may see who reads this clause, did not promise anything, or give any right; it is only a saving clause, by which parliament left the powers of grantees open to future consideration; but it is a new idea of parliamentary faith, repugnant to every idea of legislation, to suppose that parliament, when it does not pass an act, pledges itself never to pass it; the hon. gentleman might as well have said, because the *Nullum Tempus* Bill was thrown out the first year, it was a breach of parliamentary faith to pass it the second. My idea, Sir, of parliamentary faith is very different; it can never be engaged, but where something is given up for it. The faith of parliament is engaged to public creditors, because they have lent their money, upon terms proposed by the legislature, which the legislature is bound to keep; and in that case, a man who, from thinking it exorbitant, had opposed the loan, is bound in honour to vote against a repeal of that law, by which it was authorised, but it is not contended, that sir James Lowther's consent as an individual was necessary, in this case, to have passed the act originally without this clause: parliament had then an undoubted right to have taken away the right from the grantees as well as the crown; but having reserved it for future consideration, they are now, it being brought before them, as much at liberty to take it away, if they shall think it expedient. The House as a body is absolutely unpledged: every individual has a right, and ought to exercise his own judgment in the vote he shall give. There is indeed another kind of parliamentary faith, which ought to be kept sacred; I mean the fulfilling, by the provisions in the Bill, whatever is promised to the people by its title. This was entitled, " An Act for rendering more effectual an Act of James the 1st, for quieting the subjects against all pretences of concealment whatsoever." A clause was inserted in this Bill, not in the original act of king James, which, from two years experience, we find, has, in a great measure, defeated the intention of the Act. The faith of parliament will indeed be broken, if we obstinately adhere to what we inadvertently

passed, by supporting a clause which gives the lie to the title of the Act. The people, who see the quiet that was promised not obtained, will have reason to believe that it was never intended, should the Bill now offered for repealing the clause be rejected. To prove that it is a violation of justice, we are told, this Bill is to give a direction to a court of law, in the case of a particular person, which will oblige them to decide by a different rule from what they must otherwise do, and that it is an *ex post facto* law.

Now, Sir, let us see how this charge will stand: the clause proposed to be repealed might have been necessary in some cases: a person long possessed of a crown-lease might have omitted to prosecute some encroachers upon his property, from knowing that no prescription could bar him: if from any considerations of convenience he had suffered his claims to sleep, it would have been unjust to preclude him without any warning from asserting his right. No such grantee has availed himself of this clause, but a grantee of a very different kind has; one who has obtained a grant of an estate in the possession of another man, upon the suggestion of a supposed defect in that title. If therefore this Bill will only decide one cause, it is because only one such cause exists; I mean the cause of one grantee against many possessors. The provision is general; but if only one man has brought himself under this description, is it a reason why that man should be suffered to avail himself of this inadvertency of parliament to the injury of the quiet subject? But, Sir, this is not, as it is represented, a Bill to give a direction to a court of law to determine a particular cause; it is to prevent a title by sixty years possession being canvassed upon any other ground in a court of law. Those, who think the duke of Portland equally entitled, with every other subject, to the protection of parliament, will consent by this act to extend that protection to his property, which the opposers of this Bill admit is already afforded to every other man's. Those, on the other hand, who think the duke of Portland alone should be left to be oppressed, harassed, and plundered, under the colour of a law, now in every other case obsolete, and reprobated by parliament, will vote against the Bill. To deter gentlemen from agreeing to this Bill, it has been called an *ex post facto* law; such a law in criminal cases (which is the ge-

neral acceptation of the expression) is indeed justly alarming and odious, because it makes an action, innocent at the time it was done, criminal by a subsequent act, and makes the actor liable to a punishment he could not be aware of at the time he did the act, and consequently could not be deterred by. But why is this so alarming? Because it makes the unwary subject the object of prosecution and oppression, for something he could not know he had acted wrong in. But there is another kind of *ex post facto* law, which has ever been deemed as advantageous, as the other is injurious to the subject: I mean laws for the redress of grievances, which must necessarily be *ex post facto*, since no grievance can be redressed before it has been felt. This Bill is calculated to redress a grievance; in that light, and in that only, it is an *ex post facto* law. The hon. gentleman has called upon us to support by precedents this invasion of property (as he terms it): he tells us, none have occurred to him; but one has been brought in this case in a former debate; that of the Indemnifying Bill, which now lies upon the table to be passed, taking away the penalty from a common informer, vested in him by law; which, he tells us, is no way applicable to the present case; he has not, however, shewn us wherein they differ. I will shew in what they are alike, and doubt not of proving to the House, that the situations of the two kinds of informers are more similar than the two kinds of *ex post facto* laws, which he has endeavoured to confound. A penal statute makes men liable to a certain penalty for omitting to do certain things by law directed; and vests the property of that penalty in any informer, who shall enforce the law against the delinquent, by strictly following the directions of that act, as a reward for his diligence in discovering the breach of that law. The Indemnifying Act takes away from the informer this property so vested in him by law, though he has complied with the directions of the Act, and actually obtained a verdict, and restores to the delinquent that property, which, under the former Act, he had forfeited by non-observance of the law. In this case, the legislature, determining that the omission shall not be punished, takes away the reward from the informer, which was only given for the discovery of those omissions. What is the case of the informer of concealments? No law, but the custom of office, has given a beneficial

lease of any property, which shall be suggested to belong to the crown, in consequence of any deficiency of title in the actual possessor, though for upwards of sixty years, as a bribe to informers to rake into the title of their neighbours, and discover informalities and defects by which the crown may reap advantage. The legislature, justly abhorring this odious and oppressive principle, have (as they in the penal case remitted the punishment) enacted, that the crown shall not avail itself, to the prejudice of the subject, of any such defect; but that sixty years possession shall be as good a title against the crown, as it was before against the subject: where then is the injustice of taking away from the informer that reward, which was only held out as an inducement to him to do that which you declare shall not be done? Is that man more the innocent object of parliamentary protection, who has omitted, however inadvertently, to comply with the directions of a law, which he might know because it is public, than he, who, resting secure in long hereditary undisturbed possession upon the credit of his ancestors, the tacit evidence of his neighbours, and the crown, whose right alone can be invaded; when this possessor has not even a possibility of knowing the defects of his title, because he has not access to the papers that are to point out such defects? or is that man less the object of parliamentary faith, who, from interested motives, becomes the servant of the legislature, and proves a breach of the law, than he, who, from motives as avaricious, becomes the tool of office, to question the rights of an unsuspecting owner? However this precedent, strong as it is, is not the only one. The very statute of king James, and every quieting Bill that ever passed, have taken away the claims of grantees so circumstanced; and lord Coke, in his reading on that statute, mentions it as one of its greatest merits, that it protected the subject against that *turbidum genus hominum*.—My lord Coke, in his fourth Institute, mentions another case strongly in point. Some of these informers had obtained a grant from the crown of a possession always reputed to belong to the bishop of Norwich. The bishop had taken a lease of this from the grantee, by a friend of his, one Hammond: lord Coke, then attorney-general, much misliking this, as he expresses it, prevailed on the bishop, that an act of parliament should pass to secure this possession to the

bishopric. The House is, I hope, convinced, that the object of this Bill is not to violate, but fulfil the faith of parliament; not to obstruct, but support justice; not to invade, but to secure the property of the subject. The only question is, whether, by rejecting this Bill, you will support and countenance informers; a race of men hardly to be tolerated, certainly not encouraged or favoured, in a free state;—or, by passing it, secure that right which is the most honourable, and the most justly and universally favoured by the common law; a right founded in long hereditary, undisturbed, *bona fide* possession.

Mr. *Dyson* having said, that a gentleman had, in a former debate, proposed a clause for indemnifying sir James, he supposed that idea was dropped, as the gentleman had not moved for the necessary instructions to the committee; therefore he considered it only as dust thrown out to blind some gentlemen in the debate—

Captain *Phipps*, in answer, told him, that the gentleman had the clause ready, and was certain that it would be presented in proper time.

The *Speaker* then asked, whether the House would not indulge a young member in now making his motion for instructions to the committee, though in point of order he ought to have done it sooner; but the House would not.

Sir *Cecil Wray* then, in his own justification, said, he had prepared the clause in question, which he was ready to present to the House when they thought proper; that he found he had lost his present opportunity, but was informed he might present it in other stages of the Bill, therefore did not desire to break into the order of the House; that he could, however, tell the hon. gentleman (Mr. *Dyson*) who had supposed he would not present it, that he knew very little of him, if he supposed he would say one thing one day and gain-say it the next.—The debate then proceeded.

The Hon. Mr. *Vane*:

I rise, Sir, to give my dissent to the motion that has been made for you to leave the chair, because I think it my duty as an honest man, and true representative of the people, to oppose every step in every stage of proceeding, which, I am firmly of opinion, is a violation of the rights of the people, a breach of parliamentary faith, and an overturning of the jurisdiction of the law. This proceeding,

Mr. Speaker, had its commencement in rage and in tyranny; it was founded in the hope of bearing down the right and title of an honourable person, who asks no favour, but the equal and unbiassed judgment of the law; who does not resort to the law, but under the faith and direction of an act of parliament recently given. With what justice, what decency, can we annihilate the claim, that we ourselves have ratified? How can this parliament take away from sir J. Lowther that very right, which this very parliament has directed sir J. Lowther to maintain? For when parliament gave sir J. Lowther an authority to commence a suit, that authority can bear no construction, but that of a command so to do. And he was bound to prosecute his right, not for his own sake, but on account of the public, to which the estate in question will devolve, as soon as sir J. Lowther's grant expires. Surely, then, I may apply the expression of our great poet on this occasion: for, since it was by our own command that sir J. Lowther began his suit,

“ 'Twould be our tyranny to strike and gall him

“ For what we bid him do.”—

But I, Sir, take up this question on higher ground than that of personal consideration. I think it the cause of common justice, common security, and public liberty; for I know no protection by which any man can hold his property, or live in freedom, but under the line and barrier of the law: if that is taken away, or overpowered, every thing is left in common to the will of a tyrant, or the fury of the multitude. To undermine, or to subvert the law, is the language, the principle, the act of despotism. I am sorry to see, that this principle of despotism has carried us so far already; I earnestly hope it will carry us no farther; but that we shall leave this cause where it now is, to be determined in the courts of law, according to the rules and principles of law.

Mr. Seymour:

Sir; I agree with every one of those gentlemen, who think, that the rule of law is that very rule, which ought to guide our conduct, and to sway our consciences, in the question now before us. It is therefore necessary only to state what the law is. For, thank God, it is not a point of law that lies buried in the confusion of chicanery and mysteries; it is a law that every man is acquainted with, who knows

he has any thing that he can call his own. For I know, and we all know, that every man who has held an estate for the space of sixty years, without molestation, cannot, by the common law, be disturbed in his possession. The question before us is merely this, whether an individual (I may name him the duke of Portland) shall be singled out by the ministers of the crown, to have an estate taken from him by the renewal of a dormant power of the crown? which I cannot allow to have been law, because it counteracts that rule and principle of law, by which we are all protected in those inheritances which our ancestors have bequeathed to us. I hardly know what gentlemen mean, when they deny the right of parliament to alter the common law; because every statute that lies upon your table is either an alteration, or amendment, or enforcement of the common law. We do our duty to the public as often as we pass such acts as give redress, where the law has denied it; and as often as we put a stop to the abuse of power, where the common law is not able to restrain it. Our judgments, when they contradict the law, I grant, are arbitrary; when they are conformable to law, they are just, equitable, and favourable to liberty. I therefore agree to the motion, that you, Sir, do now leave the chair.

Mr. Serjeant Leigh:

Sir; I rise to give my testimony to the fairness of the manner in which an hon. gentleman, who sits below me, (Mr. Dyson) has stated this question. He has put it, I think, on the fairest issue imaginable: for he says, that whoever thinks this cause unfit to be tried by the courts below, will agree to the motion; whoever thinks it fit and proper for the courts of Westminster to decide this cause, as it is referred to them, will dissent from the motion, that you do now leave the chair.

I am free most cordially to declare, that had I been possessed of a seat in this House when the Bill passed, I should have opposed the insertion of this clause. No man shall hear me adopt such a principle as that of excluding a man from the benefit of a general law; much less could I have made a nobleman of the duke of Portland's character the object of such an exclusion.

But I have the concern to see, that parliament has excluded the duke of Portland from the benefit of that Act. Was it from inadvertency, from misapprehension, from

ignorance in point of fact, or error in judgment? Certainly no. The duke of Portland's case in general was so much in the contemplation of the House, that it even gave rise to the Bill. Was it from want of being informed of the precise situation in which the clause placed the duke of Portland? Nothing like it. The clause was shewn, approved of, and consented to by the counsel who managed his cause, who knew most intimately the conditions of his grant, and who acted on this occasion not so much in the way of their profession, as in friendship to his grace. Was it unknown to the duke, or could he be imposed on in the nature and conduct of the transaction? The character of the gentlemen concerned forbid one supposition, and the good sense and wisdom of his grace destroy the other. The clause was then more than consented to; it was approved by his grace and all his friends; and under this very clause did the suit commence.

Under what pretence then can I now vote for removing a cause from its proper judicature, in which the legislature itself has placed it? Are the courts incompetent to try the cause? It cannot be suggested. Is any violence, injustice, or partiality, to be apprehended? No, Sir, it would be unjust to form an apprehension of this nature. Indeed, Sir, if this clause was as extensive in its consequences, as when it first passed, perhaps, I might now think myself at liberty to vote for the repeal, and consent to an intrusion upon the jurisdiction of the common law, by taking this suit out of the course of trial, to obtain the benefit of future security to the subject, from the unhappy consequences of this clause. But the time allowed by the clause under your consideration, for bringing such suits, having elapsed, renders a future oppression under this act impossible; and the offer made by sir James Lowther in his place, to withdraw all other suits, removes the objection arising from a fear of present oppression. It is upon these grounds that I refuse to the duke of Portland alone that relief, which, I confess, I would gladly extend to him with others; and though this Bill bears upon the face of it the appearance of a general remedy, I think it best, however reluctantly, to sacrifice the interest of his grace, lest this Bill going down to posterity joined to his amiable character, should be mistaken for an act of partiality rather than justice, and become a dangerous precedent for an

interference with the course of justice, upon less honourable motives, and a less plausible occasion. It is for these reasons, Sir, that I shall give my vote against your leaving the chair.

Mr. Cornwall:

Sir; the learned serjeant, who spoke last, has with great clearness expressed his reasons for dissenting from the repeal of the clause, that is now under the consideration of this House. But his objections go no farther back than the commencement of the suit, in consequence of a grant made to sir James Lowther of an estate which the duke of Portland's family have had possession of near seventy years. But my principles carry me further back than the institution of the suit—my objection is to the grant itself; and if I think that grant oppressive, injurious, tyrannous, I cannot, as far as my voice goes, consent to lengthen its existence one moment: whatever is built on such a ruinous and bad foundation, ought to be instantly pulled down.

The grant was made on a revival of an abominable principle, that 'nullum tempus occurrit regi.' I do not mean to flatter either the gentleman who obtained the grant, or those who made it. I do not think the motives for soliciting it can be justified by any man in a cool moment. I think the reasons for granting it unpardonable at any time. It was solicited, during the heat of an election, for the purpose of carrying on that election: it was granted, upon a supposed necessity of supporting the claims of the crown. I do not think it a credit to any servant of the crown to be tenacious of such a prerogative. Had I had the honour to have been at the treasury board, so far from giving my countenance and assistance to any grant in support of the principles of the *nullum tempus* claim of the crown, I should have thought I had discharged my duty more agreeably to my gracious master, and more like a faithful steward for the public, by discouraging such claims, and discountenancing every informer that attempted to avail himself of them. The property of the crown is the property of the public; that property is only valuable, as it is a part of the interest of the public. The interest of the public is, that the subject should be quiet, and look up to the crown with confidence for protection, and not dread to feel from it the hand of oppression. What can be more unnatural and repugnant to

the principles of a free government, than the exercise of a power, which vests in the crown an exclusive right of disturbing the ancient possessions of the subject, not only for its own emolument, but to gratify the rapacity or revenge (I mean not to point this to the present instance, I mean the reverse) of an unworthy individual, at the expence of, perhaps, the most meritorious and virtuous member of the community. Yet such is the power claimed by the *nullum tempus* right, in its utmost extent. I confess, had I been for a partial repeal, the part exempted by this clause is that I should be more solicitous to destroy; as I think much more vexation is to be dreaded from the passions and interests of individuals, than the necessities of the state. As to the duke of Portland himself, he is not only entitled to the protection, he deserves the thanks of the public, for generously consenting to wave the immediate possession of that security, which, in common with every other subject, he had his right to. He was contented that his rights should sleep, lest they should be a motive in the mind of any one man to clog so salutary a Bill, and universal a benefit. I think therefore, as his case is now before you, that parliament is bound in honour to defend him from that persecution, from which it was his first object to redeem others, before he would attempt to preserve himself.

Lord North :

Sir; the hon. gentleman has at last revived in my memory a grant, which passed since I had the honour of holding the seal of the exchequer, and which seal I am proud to own was affixed by me to the grant in question. This he calls an abominable act; but in the situation I then was, and still am, I thought myself bound to pass it by every principle of duty to the crown, as the servant of the crown, and bound still more strongly by that duty which I owe to the public, as steward of the public estate, as far as it is entrusted to me. It is my glory that I passed the grant; and as often as mention of it is made, so often shall I think that honour imputed to me. The hon. baronet who introduced this Bill, spoke in a very different language. He opened his proposition with great politeness, great candour, and in a manner entirely worthy of himself; but he will forgive me if I own, after such an introduction, it surprised me the more, to find his

[VOL. XVII.]

conclusion to point at what I hardly conceive he will persist in, a violation of private right, an utter perversion of law and justice, and a breach of parliamentary faith. Sure I am, Sir, the hon. gentleman would have thought no terms too severe, had such a Bill been advised or moved by administration; but gentlemen in opposition are sometimes apt to run lengths, that men in office would shrink from. But, Sir, whatever might be the ground of an intention to bring in this Bill, that ground now is entirely removed. The hon. gentleman to whom the grant was given, has behaved in the noblest manner, a manner that must do him honour, not only in the breast of every ingenuous man, but that must extort admiration and praise from the mouth of enmity itself.

There were, it seems, many persons who had enclosed lands under the faith of several acts of parliament obtained by the Portland family; who, as they thought their titles were good, might have been exceedingly distressed, had not the goodness of sir James Lowther relieved them. But there is no person remaining now, against whom any suit is commenced, but the duke of Portland; and surely, Sir, the duke of Portland is no object of pity. Therefore, even in the feelings of men, there can be no objection, why justice should not run her course in respect of the duke of Portland only. But such is the fate of condescension and acquiescence, that no sooner had the hon. gentleman made the concession, than an advantage is immediately taken against him of his own bounty, and it is asked, why is the duke of Portland to be alone excepted? All I can answer is, that justice must have taken her course in respect to all, had not sir James Lowther himself exempted such as his humanity pointed out. But it is the strangest argument I ever heard, that, because a gentleman had the generosity to give away a part, therefore the rest shall be forced from him. It has been insinuated, indeed, that the hon. gentleman did not offer to make these exemptions, till after notice was given of bringing in the Bill. Sir, it is no business of mine to enquire, when the offer was made. All I desire to know is, what I do know, that they owe their quiet to the liberality of sir James Lowther; and the event of this day will prove, that, had it not been for his liberality, they had been the real objects of pity, which these gen-

[C]

tllemen have laboured to convince the House the affluent duke of Portland is. But, surely, Sir, such an object of pity as the duke of Portland, with all his vast hereditary, undisputed possessions, was never held up to influence the passions, against the justice of the House. No, Sir, this House never will, for the sake of pity, in a real case, put itself in the scandalous situation of a parliament that can break its faith. No, Sir, the faith of parliament, which was kept inviolate to sir Richard Brook last year, notwithstanding the efforts of a powerful, beloved, and noble connexion, will this year be held sacred with sir James Lowther. There is no difference in the circumstances of the two cases, none in the characters of the two gentlemen, to induce us to make so injurious a distinction, and, let me add, so disgraceful to this House, was it to take place.

Lord John Cavendish :

Sir; the subject now before you is of a nature that makes me extremely unwilling to speak a word upon it; but there can be no situation, which obliges a man to silence, when justice requires him to speak. That justice impels me now to inform the House, that there is a young lady, near in blood, and dear in affection to me, to whom I am a guardian, who has this very estate in question settled upon her in part of her jointure: if then it has been pleaded for those, who, it seems, are already exempted, that their ignorance of any defect in their titles should entitle them to protection; sure I am, that the duke of Portland, had he not been in ignorance that the estate, which his family has possessed for so many generations, was liable to be torn from him by a grant; and that the able and upright lawyers, who drew up the settlement, had not been in equal ignorance; the duke would never have offered, nor they accepted the estate, as part of her jointure, or included it in the settlement made upon her son.

Governor Johnstone :

Sir; I have heard with indignation, rather than surprise, the arguments that have been used, in support of a measure, the most violent, arbitrary, and unjust, that ever was proposed to parliament. I therefore said, Sir, I was not surprised; even though I have heard the Bill supported by allegations, as false in fact, as the end proposed is unjust. It has been

treated, as if the property in question was the estate of the duke of Portland; and sir J. Lowther the invader of his estate. Sir, I deny that the duke of Portland ever was the legal owner: I have the best authority to affirm, his grace never had a right by law, and that sir J. Lowther's grant is strictly according to law: I therefore submit it to the understanding of every man present, whether he is the right owner who has a legal title, or he who has no title at all? If the duke of Portland has so just a right as is pretended, why is he so afraid of trying of it? Why has he pleaded privilege? Why has he used every artifice to gain time, perplex, and also draw the pity of the public? I suppose the noble lord, who spoke last, mentioned the case of an innocent lady to draw the compassion of the House; but I can assure the noble lord (for I am authorized to say so) that sir James Lowther is as ready and as willing to make a recompence to the duchess of Portland, as to the other persons who may be supposed to have escaped the view of the legislature when the Bill passed; and who are so nobly exempted from all further prosecution by sir J. Lowther; but whose bounty and munificence on this occasion have been most ungenerously turned against him in favour of the duke of Portland.

It has been said, among other falsehoods, that sir J. Lowther applied for this grant, in order to influence the Cumberland election. That falsehood has been refuted by the hon. gentleman in his place, who has solemnly declared, that no regard to the Cumberland election governed him in the least. Hearing it from my hon. friend's own mouth, it is impossible to doubt the truth of what he has said. All the world must now believe, that sir J. Lowther had no view to the election, when he solicited the grant. It was the defence of his own property that induced him to apply to the crown. For the duke of Portland, not content with usurping the estate of the crown, could not rest without attempting to usurp the property of others, by virtue of his pretended grant. For he filed bills in Chancery against sir J. Lowther, and the corporation of Carlisle, in order to take from them the fishery of the river Eden; though sir J. Lowther's family have enjoyed the said fishery ever since the reign of Edward the 1st, and the corporation have had theirs for centuries back. With what justice or truth, then, can sir J. Low-

ther be said to invade the ancient property of the duke of Portland? when all he does is in defence of a most ancient property of his own, against the attacks of a new man in that county: for I will venture to say, that the ancestors of sir J. Lowther had noble possessions there, many hundred years before the name of the duke of Portland was known or heard of in the kingdom of Great Britain. But all that my hon. friend asks, is a fair trial at law; and whether he that wishes to avoid the law, or he that desires to be tried by the law, has the better cause, I submit to the judgment of the House.

Mr. Wallace:

Sir; I have heard the question treated as an intrusion upon the judicature of common law, for which gentlemen have assigned this reason, that as it is already referred to the decision of the courts below, we should usurp their authority, and controul their jurisdiction, were we now to stop the suits that are commenced. But every gentleman of my profession knows, that it is the frequent practice of the court of Chancery to dismiss suits, when there appears just reason why they should proceed no farther in them. In the present instance, the courts below are bound to proceed in the suit now under our consideration; the legislature only can stop its progress; the legislature is therefore applied to in this case, as almost in every other, to do what the common law, without the aid of parliament, cannot do. The point, therefore, for us to consider, is whether the common law, on those general principles on which it acts, would entertain this suit? Certainly not, Sir! it is trespassing upon the patience of the House to repeat it, that no court can entertain a suit against an uninterrupted possession of sixty years. But it is said that this clause does not give sir J. Lowther any power, except against the duke of Portland: but sir J. Lowther has instituted suits against two hundred persons at least, who are no way concerned with the duke of Portland; and, as I am informed, some of those persons have given up their estates, rather than contest them.

It is said, Sir, that the duke of Portland has pleaded his privilege against sir J. Lowther; that I deny. It is also said the duke of Portland has attempted to take away from sir J. Lowther, and the corporation of Carlisle, their fishery of the river Eden. Sir, the duke of Portland has at-

tempted no such thing; he has never questioned the right, either of sir J. Lowther, or the corporation of Carlisle.

The case is this: the duke of Portland had a valuable fishery on the river Eden; betwixt this fishery and the sea, sir J. Lowther and the corporation of Carlisle have also fisheries. But by a new mode of fishing, which is to lay fishing-nets quite across the river, they have intercepted all the fish from running into the duke of Portland's part of the river; so that it is useless, and of no value. But all that the duke of Portland has done, is to file a bill in Chancery for permission to record the testimony of ancient persons, who remember what the methods of fishing were, before these nets were invented, and this new mode practised: this is all the duke of Portland has done. It has been often said in this debate, that we have no precedent for stopping a law-suit in the midst of its course. Sir, the annual bill that we pass, both for preventing and stopping suits, and neglecting to qualify, is a precedent in point; I am persuaded there are a hundred more in your statute-book. But, Sir, if a man takes an office, civil or military, or ecclesiastical, and neglects to take the oaths and the sacrament within a certain time, he is to forfeit 500*l.* to the informer. In that case it is not a cause of a doubtful nature, that a jury may decide upon one way or another; it is a certain specific sum, enacted and declared by parliament to be the right of him who lays and prosecutes the information. A Bill for this purpose now lies upon your table; but any gentleman would, I believe, be laughed at, who was to use such an argument against the Bill, as to say, that by stopping the information he should rob the informer of 500*l.* The only difference I perceive in the two cases is, that poverty and distress might induce a man to inform in one case; but no such motives can be applied to the case in question.

Mr. Charles Fox:

Sir; I take great shame to myself, that I have not risen sooner to declare my sentiments on this important question; for I think it disgraceful in any man to sit silent on such an occasion, who ever had the use or faculty of speaking in this House: but, Sir, my silence was owing to my astonishment; I was confounded! I was amazed! for though I saw this Bill at first in the same light in which I behold it now; yet, when I looked round me, and

saw who the hon. gentlemen are who introduced it; that they are men of character, men of abilities, men of knowledge, men of reputed integrity; I hesitated, I strove to persuade myself, that I must rather be mistaken myself, than that any thing so bad, so violent, so lawless, so monstrous, could be advanced by such men who proposed this Bill. But I could not long remain undecided; I soon beheld the proposition in all its naked, genuine deformity: then, Sir, as I was at first struck dumb with astonishment, I was seized with horror and indignation. Who, Sir, that has a conscience to revere justice, a sense of liberty, or a regard for the constitution, can listen, without feeling an honest zeal to defeat a proposition, which, at one blow, destroys our constitution, our liberty, and our laws? Gentlemen are loud in their clamours against ministerial influence. I avow the systematic support of that minister in all his measures, who has my good opinion and confidence; but that minister shall never have my assistance and support, who shall dare to propose what these gentlemen, who are so proud of their opposition to ministers, now propose. Mr. Speaker, it is under the law that every man holds his property, and enjoys his liberty in security and ease. But I firmly believe, as far as I am informed, that no man can have a better title to his estate, than the very title which the crown has vested in sir J. Lowther to the estate in question. If that title is to be taken away by act of parliament, why not bring an Act to take any other part of his estate? Why not of another man's? For, if Bills are thus to pass for transferring the property of one man to another, there can be nothing sacred, nothing secure amongst us. I wish, therefore, Sir, the gentlemen who brought in this Bill, would, for their honour's sake, withdraw it. I am sure my conscience would never suffer me to be at rest, was I to perpetrate the injustice intended by this Bill. As to myself, the same conscience, which dictates my present opposition, shall carry me on to oppose the Bill in every step, through every stage. But if it succeeds here, it cannot succeed elsewhere. I do therefore again deprecate the honour and justice of this House, that we may not suffer the scandal of passing this Bill to lie at our doors, and give the honour of rejecting it to the other House of Parliament.

Sir George Savile :

Sir; I am extremely obliged to the candour of those gentlemen, who have bestowed on me so much more praise than I deserve, in the part I had the honour to take, in bringing in a Bill for the general quiet of the subject, which the House thought proper to pass three years ago: but I own that I do not feel myself much elated by it. However grateful for their praises, to say truth, I am the more humiliated at having received them, being so soon to lose them: for I observe, that the same gentlemen, who have flattered me so much with their commendations for what I have done, think no name too bad for those who may give the same vote, that I shall probably give on the question before us.

Perhaps, Sir, if nobody but myself was in question, I might rest contented under the censure in one scale, so balanced by applause in the other. But there is another person (sir Anthony Abdy) to whom much the greater part of the praise, bestowed on me, is due; and who, if he was present, would not, I believe, be ashamed to share any disgrace that may fall on me: he is, unfortunately for himself and the House, confined at home. I am doubly unhappy in his absence, as he would do much more justice to his own sentiments than I can by relating them. But we have talked the matter over; our memories correspond to the fact pretty nearly, and our inferences do not differ much.

First of all I desire to disclaim, for myself and my colleague, every imputation that we ever thought the duke of Portland ought to be debarred for ever from applying again for that justice, which we think was violated in the clause by which he was proscribed.

Let me, however, suppose, that a conversation of this sort might have happened during the course of the Bill. Suppose somebody should say to the duke of Portland, "Here is a Bill for the general quiet and protection of the subject; but, unluckily for the Bill, your grace is to be protected by it; which is thought so unjust and so unreasonable, that the Bill may probably be lost, unless your grace will consent to wave your right to that common protection which every man is to derive from it." Well then, the person thus questioned is the duke of Portland, and the duke of Portland must necessarily answer for himself: the duke of Portland, therefore, could only

say, "God forbid that my private interest should stand in competition with that of the public: let my cause be separated; let the public be answered in the first instance; perhaps in some future day the ear of justice may be opened to my cause; perhaps parliament may not persist in proscribing me and my family for ever."

I believe, Sir, I shall explain my meaning by a fable better than by argument. Suppose then a boat, with all her crew, should be cast away upon some barren rock, which yielded not a grain of subsistence, and their provisions were consumed to the last morsel; they must put out again to sea, but they find their boat had suffered much in the storm, was become leaky, and in danger of being over-set, by having too many men on board: the pilot is, however, of opinion, that if they had just one man less the boat might possibly be saved: one would naturally suppose a dispute must arise, who that one man should be; but there happened to be one man on board ready to offer himself a sacrifice for all; they put him on shore, and leave him exposed upon the rock. Now, Sir, should the crew once find themselves out of danger, ought they to abandon the man who saved them, or ought they to put back to save him, to whom they owed their own preservation?

Sir William Meredith :

Sir; the peculiar situation in which I stand in this question will, I trust, entitle me to the indulgence of the House, if I once more presume to trouble you. Partiality to an individual, in subversion of law and justice; invasion of private rights, secured by the faith of parliament; together with every other name and epithet that can be given to violence and injustice, have been ascribed to those who introduced, and who support this Bill. It becomes me therefore to state, as I will do fully and fairly, the grounds on which I have acted; and also examine the truth and justness of those gentlemen, who have taken a contrary part; whose consciences would seem to have been so exceedingly agitated, and who have been so liberal of their invectives during the course of the whole debate. And though I cordially adopt every sentiment that fell from an hon. friend of mine (Mr. Constantine Phipps) who spoke second in the debate, yet he will forgive me, if I lament that he took so much notice of those indecent and abusive publications, some of which

have been handed about privately, and others circulated by the newspapers. As to myself, I have so long and so often borne the efforts of ineffectual calumny, that I am quite indifferent about them. I hope it will not be an unbecoming vanity in me to say, that

"I am arm'd so strong in honesty,
"That they pass by me as the idle wind,
"Which I regard not."

But still, Sir, I cannot be insensible to the reproach of such persons as are as near and dear to me; and I own it affected me deeply, to hear from an hon. gentleman, (Mr. Vane) whose friendship and good opinion are above all things valuable to me, that this proceeding was commenced in rage and tyranny, and that nothing could crown it with success, but perseverance in a spirit of despotism, which, he hoped, would either be changed or overcome, before the Bill can pass into a law. As to the rage which my friend attributes, had any other person charged me with it, I should have appealed to him as a witness of the same temper in private, which this House has seen in my public demeanour through this business. I shall speak to the tyranny by-and-bye. My hon. friend thinks, that, as sir James Lowther was authorised to prosecute the suit he has commenced under an act of parliament, he has done no more than obey that authority; and therefore he applies a passage in an author, whom we all admire and so often quote:

"It would be tyranny to strike and gall him
"For what we bid him do."

Mr. Speaker, the Nullum Tempus Bill, that we passed three years ago, took from the crown the power of disquieting hereafter possessions of sixty years, but reserved a power of prosecuting suits to effect within the year. Of this power sir James Lowther has alone availed himself; but, in my sense of things, that honourable person would have shewn his obedience to parliament, by desisting from his pursuit, much better than by taking a momentary advantage to disturb a possession of sixty years, which parliament has condemned, and annihilated the power to attempt in any future time. But had my hon. friend stated the whole sentence he quoted, I believe we should not differ in our application of it. It runs thus:

"'Twould be my tyranny to strike and gall 'em
"For what I bid them do. For we bid this,
"When evil deeds have their permissive pass,
"And not their punishment."

What then is the evil deed that has been done? Is it not the tyrannous and odious grant, by which the county of Cumberland has been so disquieted? I admit, I aver, that parliament, instead of allowing its permissive pass, ought to have punished the minister that made the grant. But where the tyranny lies of stopping its further progress, I am at a loss to conceive. Will my honourable friend permit me now to refer him to the fable and the moral of that excellent play (*Measure for Measure*) from whence he took his quotation? The story is of an old, absurd, obsolete law being revived, and an amiable young nobleman condemned to die by it. The great poet never tried his genius more, than in uniting all the vile and detestable qualities that human nature is capable of in order to draw the character of a minister capable of reviving and executing such a law. Let my honourable friend next turn his recollection to that part where poetic justice closes the last scene. There he will see what the decision of virtue, reason, and mercy was, on the execution of that antiquated law. Did the wise and gracious prince of that drama suffer it to take its course, and destroy an innocent man? No, he saved and protected him; but assigned over the execrable minister, who revived and would have enforced the law, to punishment, remorse, and shame. Now let my hon. friend apply his fable to the history of this day. The law of the land has ordained, that an uninterrupted possession of sixty years shall be a bar to every possible claim of subject against subject. But there was an old obsolete law, a wretched remnant of tyranny, that said 'nullum tempus occurrit regi.' This law was attempted to be revived in the reign of James the 1st, but the attempt was stopt at the out-set by act of parliament. For one hundred and sixty years it has lain dormant, till a few years ago, when, together with every principle, policy, and maxim of that reign, this law was revived also. Here do I rest the merits of this question. I contend for that rule of law which, after sixty years uninterrupted possession, estates the owner in an unquestionable right. My hon. friend contends for that rule of government, which gives to length of possession no security against the claims of the crown. Which then is the side of despotism; which that of law, liberty, and justice, let God and every rational being, judge betwixt us.

A noble lord, (North) who spoke lately, has condescended to make me a compliment of having introduced this Bill with politeness, candour, and personal attentions: he has been pleased to return my compliment by charging me with injustice, violence, and breach of parliamentary faith. He asks, why is the same parliament, that kept its faith with sir Richard Brook last year, to break its faith with sir James Lowther this year?

Mr. Speaker, in the case of sir Richard Brook I presumed to take a more active part than perhaps became me. Sir Richard Brook consented that the duke of Bridgewater should carry his canal through his estate, on condition of keeping at a certain distance from his house and gardens. The duke of Bridgewater presented a petition to enable him to come nearer his house than the agreement allowed, and to cut through his garden. I denied the right of parliament to break that agreement, without sir Richard Brook's consent: I opposed the motion for subjecting this point to be litigated in a committee, and decided by the evidence of Mr. Brindley. I then stood, as I now stand, in defence of ancient property against the attack of power.

The noble lord having attributed injustice to me, I am happy that he has given us his own idea of justice.

He has told us, that sir James Lowther, in his magnanimity of mind, has exempted from prosecution all those that are objects of pity; and therefore we ought still to suffer the duke of Portland to be persecuted, because he is not to be pitied. Is this the noble lord's idea, and this his language of justice, that he, who is no object of pity, is no object of justice? Let me ask the noble lord, if there is more than one definition of justice? and if equality is not that definition? May I again ask the noble lord, what it is to single out one man, and to cut him off from the common benefit and protection of the law? Is it not proscription? And is proscription justice? Or is it not injustice in the extreme? Is not the principle of proscription that, which can never be generated, but in the darkest, deepest, foulest abyss of tyranny?

The noble lord also says, it is a breach of parliamentary faith, to break through the law, that we passed so lately. The people will, indeed, say to us:

"Be these juggling fiends no more believed,
 "Who palter with us in a double sense,
 "Who keep the word of promise to our ear,
 "And break it to our hope."

Well, indeed, might the people of Cumberland apply these lines to us, when we passed an Act, with a title that promised quiet, and whose provisions exposed them to destruction. But does the noble lord remember, who gave the example of altering the Bill? It was the late Attorney General this very session; who sat on the noble lord's right hand, and, under his countenance and assistance, brought in a Bill for enlarging the term, to enable the crown to prosecute the occupants of a number of houses in the Savoy. If the noble lord thought the faith of parliament pledged to maintain the Act inviolable, why did he assent to break through it, in order to prosecute the inhabitants of the Savoy beyond the time as limited by the Act? Surely the noble lord must flatter himself with supposing, that the system of despotism (which I wish to believe his lordship is not intrusted to execute) is already in a state of maturity and perfection, and that we have made a complete surrender of ourselves, if he can expect us to acknowledge, that it is a breach of parliamentary faith to narrow the powers of the crown in favour of the subject, and no breach of faith to enlarge those powers against the subject.

The learned serjeant (Leigh) who sits behind me, spoke with great candour, and was followed by that attention which his personal abilities and professional character deserve: but he rests his argument chiefly on the danger that private property may incur, by stopping a suit now in its progress through the courts, for which, he says, there is no precedent. I shall speak to the precedent by and by; but the learned gentleman, I think, is mistaken, in stating the interest of his profession, as the interest of the public. I grant the profession will be a loser, by stopping a lawsuit, which, at its very commencement, has cost one of the parties 4,000*l*. But the public is neither interested in the commencement, progress, nor issue of a law-suit, as it respects individuals. The interest which the public has in the administration of justice, consists in the general security and protection that we derive from it; and it is that very principle of law, on which property rests in safety, that forbids an uninterrupted possession of sixty years to be litigated at common law. The question therefore before us does not touch the competency of the courts to try any cause, which they have a common right to try; it is merely, whether we shall

continue a competency in this one case, that the law itself has taken away in every other. And I am proud to be able to assert to that learned gentleman, that the very motive for introducing this Bill, was, to save the people of Cumberland from the necessity of maintaining the inheritances they were born to, at a ruinous expence, perhaps as fatal to themselves and their families, as the entire loss or surrender of their fortunes.

As to the precedents, of which, it is said, there are none, our history is a compendium of them. Every act, by which our ancestors vindicated the rights of the people against the power of the crown, is a precedent in point. The end and aim of every struggle for liberty has been, to reduce the regal within the limits of a legal power. Freedom of person and freedom of property went hand in hand together. I think, indeed, Sir, the general cause of liberty more interested in the one than the other; because, if a man should lose his personal liberty, and be confined, even to a dungeon, though he would become an object of commiseration, yet he would be rendered incapable of extending his miseries to others; but if it is ever said to a man, who is dependent for his property, do as you are commanded, or your estate shall be taken away; should then necessity compel him to yield, he might be not only enslaved himself, but become an active and effectual instrument in imposing slavery upon others. Magna Charta, all the forest laws from the reign of Henry the 3rd to the 16th of Charles the 1st, together with the Act for abolishing the tyranny of feudal tenures at the restoration of Charles the 2nd, are every one of them precedents for rendering private property independent, and securing it against the attacks of the crown. It is therefore unaccountable in gentlemen, especially of the learned profession, to object the want of precedent.

The statute of James the 1st, which we are endeavouring to extend to the case of the duke of Portland, is a precedent, that, in principle, as well as fact, goes to every point of the question before us. It not only gives future quiet to the subject, but stops every law-suit then depending. The express provisions are, to secure every estate of sixty years possession, against all and every person, having, or pretending to have, any estate, right or title, by force, or colour of any letters patents, or grants, upon suggestion of concealment, or de-

fective titles, of or for which said manors, lands, and tenements, no verdict, judgment, or decree, hath been had or given.

Let it now be remembered, who it was that introduced this Bill, and carried it through the House. Sir Edward Coke was the man. Did sir Edward Coke then think it a violation of law, to secure a possession of sixty years against the claim of the crown? Did he call the ancient property of an ancient house, the property of an informer? Did he contend for the lucre of lawyers, against the principles of law? No, Sir, the statute of king James is the brief of sir Edward Coke's thoughts on this subject; but he did more; he has left a comment on that Act, in further testimony of his opinion, and as a guide to posterity. If the learned serjeant has not read, or has forgotten that Institute, which the great master of his own science wrote, let him peruse it—I will then make him the judge between us, who acts up to the principles of sir Edward Coke, and who deviates from them.

It is now so long since I moved the repeal of this clause, that the House will perhaps endure me, if I repeat my motives for it. I must take the liberty to contradict an hon. gentleman (Mr. Dyson), who asserted, the duke of Portland's interest was the sole ground on which we have acted. The duke of Portland was not named, nor thought of particularly, when we heard that striking, sorrowful history of the distresses, in which so many freeholders of Cumberland were involved. Some of them, we were told, have even given up their estates, rather than stand a law-suit with so great a competitor; and the rest are in that state of suspense, which is the aggravation of misery. On their account I introduced the Bill. The hon. gentleman has indeed assured us, that sir James Lowther will withdraw all the prosecutions, except one: may he derive all the honour that such a concession merits, and may the peace he has given to others, be repaid ten-fold into his own bosom! But still, Sir, I am at a loss to know, why is the duke of Portland to be excluded? What crime has he committed, so as to forfeit the protection of the law?

The answer is, 'volenti non fit injuria.' His own consent binds him, and our assent binds us, to the clause. That the duke of Portland consented to separate his cause from the public, I admit; but he did not sever himself from the justice of parliament hereafter, as has been stated by my hon. friend (sir George Savile.)

But allowing the duke did give his consent, it shall not carry me to do injustice to those, whom his consent ought not to affect. For the estate in question is under settlement to his duchess in jointure, and entailed upon his son. The duchess, indeed, is fortunately in a way to be taken care of. For an hon. gentleman, (governor Johnstone,) as authorized by sir James Lowther, has proposed to make up her jointure out of sir James's estate. To be sure, Sir, the kindness and generosity of taking away a man's estate, in order to make a jointure upon his wife, is very transcendent; but decency forbids me to imagine, that such a wife, of such an husband, can take a jointure from one who is not her husband.

But let me for one moment suppose the duke of Portland as much bound by this consent, as man can be by any bargain whatsoever; what then was the agreement? It was as universally admitted, that the duke of Portland should remain exposed, and others be protected. An agreement, if broken by one party, is discharged as to the other. If therefore prosecutions have been commenced; if they, for whose quiet the duke of Portland engaged to sacrifice himself, have been disquieted, then is the condition void. Prosecutions have been commenced—he who commenced them has made the agreement void.

I did move the repeal of this clause, because I thought it should never have been in the Bill. I thought the Bill fit to protect all or none. The clause, if applied to the claims of the crown, violates the principle of the quieting act itself; if applied to the case of subject and subject (as it does in fact, for the right of the crown is vested in sir James Lowther) it violates that sacred rule of law, which secures the subject, in a possession of sixty years, against every other subject. That we are bound by our former act, is an argument not to be admitted; we are as free to repeal as to enact. In all other courts there is an appeal against every erroneous judgment. In parliament, the appeal lies to parliament only—if therefore we have done wrong, and upon deliberation and revision we should persist in it, we shall shew ourselves in the very worst light in which human nature can appear. It is our lot to err, but to persevere in error is our crime.

My learned friend (Mr. Solicitor General Wedderburne,) who sits near me, in

the last day's debate on this subject, quoted a comparison of the two sorts of government, as defined by an elegant writer of antiquity, the *Imperium hominum*, and the *Imperium legum*. "*Regem hominem esse, à quo impetres ubi jus, ubi injuria opus sit. Legem, rem surdam, inexorabilem.*" I am as willing to rest my cause on the true application of this passage, as on the quotation from *Measure for Measure*, in the beginning of the debate; for I cannot define the two sorts of government better than by calling one the law of the land, and the other a dispensing power in the crown. The former, then, is deaf and inexorable to any claim set up against a possession of sixty years. But '*nullum tempus occurrit regi.*' The king, in his own person, is exempt from every thing that is not the perfection of wisdom and goodness. But the minister, who executes the power of the crown, has no rule to exert this power over property, but that of his own will, which may incline him to set up one man and pull down another, as each may be adverse or subservient to his purposes. My learned friend thinks all ground of complaint taken away, because those persons, who would have been real sufferers, are now exempted: according to that idea, where there is no cruelty, there is no tyranny. But I am sure, my learned friend's ideas are not so narrowed; he knows, that not the man alone who feels, but he who is exposed to tyranny, is without freedom. Tyranny is like the thunder-bolt, which strikes the oak rather than the willow; to resist it, we must protect him who is the object of the tyrant's stroke; the poor man is beneath it; where therefore the cause of humanity ends, there the cause of liberty begins.

It is high time, Sir, that I should cease to trouble you. After being so accused of injustice and violence, I thought my defence necessary, though I am afraid it has trespassed too much upon your patience. Let me then only state how it stands betwixt me and my accusers. I have brought in a bill to rescue two hundred persons from oppression. In one hundred and ninety-nine instances they not only applaud, but are glad to share my merit. For extending the law to one man more, I am charged with rage, tyranny, despotism, and every appellation that denotes injustice. Let, however, those who affect to think me so unprincipled, consider how deeply they participate of my

[VOL. XVII.]

guilt; for, in respect of one hundred and ninety-nine persons out of two hundred, they stand in the same predicament as myself. But why are they stopt at that one? Is it from a genuine wish to proscribe the duke of Portland? I acquit them of such a motive. But, alas! his grace is no favourite at court. The mandate is gone forth; and the minister has proclaimed that, "if thou let this man escape, thou art not Cæsar's friend."

The question being put, That Mr. Speaker do now leave the chair: the House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Walsingham - -	}
		Mr. Coxe - - - - -	}
NOES	{	Mr. Charles Fox - -	}
		Sir Robert Fletcher:	}

The Tellers reported to the House, that the numbers were for the Ayes 155, for the Noes 165, so Mr. Speaker declared, that the Noes had it.

But it having happened, that among the members who were coming in on the division, a stranger, who had continued in the lobby, after it was cleared, had come in, and was told as one of the Noes, several members objected to the validity of the division, and insisted, that the question ought to be put again, and the sense of the House again taken: Mr. Speaker immediately on declaring the numbers, had ordered the doors of the House to be locked, in order that no member might go forth: the stranger was then brought to the bar, and examined, and it appearing that what he had done was from ignorance and inadvertency, and without any intention of passing for a member on the division, and being known to several members as a man of good character, he was for the present ordered to be taken from the bar.

The question then, "That Mr. Speaker do now leave the chair;" was again put. The House divided again. The Noes went forth.

Tellers.

YEAS	{	Mr. Seymour - - -	}	154
		Mr. Byng - - - - -	}	
NOES	{	Mr. Onslow - - -	}	164
		Mr. Charles Fox -	}	

So it passed in the negative.

By which it appeared, that notwithstanding the immediate orders of the Speaker, one member had gone forth. The stranger was then again brought to the bar, and by general consent of the

[D]

House dismissed, with a caution from Mr. Speaker not to be guilty of the like offence again.*

Resolved, That this House will, upon this day three months, resolve itself into a committee of the whole House, upon the said Bill.

Durham Yard Embankment Bill.] February 22. The Report from the committee for embanking at Durham Yard, was read. The House had directed the committee to report their opinion to the House; which opinion was, that a Bill should be brought in. As the report was very long, and the House had been inattentive to the reading it, it was moved, to print the report before the bringing in a Bill, that every member might have an opportunity to understand the affair; and it was alledged, that such printing would not put off the Bill more than one day; that it was an affair of the greatest consequence, as it gave to one man an estate taken from the river worth 40,000*l.* and for which he paid no kind of acknowledgment to the public.

The friends to the embankment, on the contrary, wanted to have a Bill ordered in, as perhaps something might arise from the report, which might put it off more than one or two days; that, as the House had given authority to the committee to report their opinion, it was but paying the com-

* The above is from the Journals. The following account of this circumstance appeared in the public papers of the following day: "The question was then put, whether the Speaker should leave the chair? when the numbers appeared 155 for the motion, and 165 against it. But a person was found dividing with the majority who was not a member, which occasioned much confusion: he was examined as soon as the House could be quieted; when it appeared that his name was Hunt, a merchant in Bermuda; that he had often, by the favour of the members, got into the House to hear the debates; that expecting something remarkable in the debates of this day, he had come down to the lobby not long before the division; that on the division he had retired to a little room in the lobby, and waited there till the door-keeper came in, and said, 'The doors are open;' on that he concluded that he might go into the gallery: he therefore followed some gentlemen in, when he was immediately seized; that he had no other intention, than to get into the gallery to hear the debates. As Mr. Hunt had appeared on the part of the ministry in the division, it occasioned some laughing. The House divided again, when the numbers were 154 to 164."

mittee a proper compliment to order in a Bill on their opinion, that the report might be printed afterwards; and then would be time enough to oppose the Bill. They carried a previous question, 79 to 23, and leave to bring in a Bill 75 to 19.

March 6. Counsel were called in against the Bill for embanking the Thames at Durham Yard. There were three sets of petitioners. The city of London, the Watermen's company, and the company of Lightermen. When the counsel came in, they were asked for whom they were counsel, they said, for the city of London only; but that, as the question concerned the whole body of petitioners, in their pleadings, they should act as if counsel for the whole.

A debate then arose, whether the counsel should be permitted to bring evidence for the city of London, against the damage expected to the navigation of the Thames from the embankment. It was argued, that at the committee above stairs, they had already produced all their evidence, to support that part of their allegation; that all the city wanted, was to protract the time, till the session should be at an end, and the Bill lost; that if the petitioners were allowed, in every stage of a Bill, to produce the same evidence over and over, it would be impossible for any Bill, so opposed, to get through the House.

On the contrary, it was said, that when a petition was against the whole of a Bill, it was justice to allow evidence on that head to be heard at the bar of the House; that the order of the House expressed so much; and that the Speaker had summoned these very witnesses to attend that day, which would be an infamous mockery, if they were not allowed to give their evidence; that this was in the nature of a new trial, in which the same evidence was always heard again, if required. However on a division, it was carried to restrain them, by 53 to 12.

The counsel were then called in again, and acquainted with the resolution; when Mr. Lee, one of the counsel, informed the House, that since he went out, he had been credibly informed, that the night before, he had been retained for all the parties, which, on recollection, he thought was really the case; but that, in the hurry of business, and he thinking, that as the city of London had been the principal opposers it had slipped his memory, and he had looked on himself as counsel for the city

alone, but charged with the care of the whole matter, as blended together.

A debate then arose, whether, after this declaration, the counsel might be permitted to produce evidence on behalf of the company of lightermen, who had not as yet been heard.

The friends of the embankment, who did not wish to hear any evidence against the Bill, opposed it now; they said, that as the counsel, on being first called in, had denied their being retained for any but the city, the House could not receive their after-declaration, which had not been made till they had heard the resolution the House had come to; that it must have been in consequence of the resolution, to help their clients out with this after-recollection and declaration. On the contrary, the lord advocate of Scotland, though a friend to the Bill, opposed this reasoning, and shewed how essentially justice was concerned, in getting the best evidence possible in every case; that there was a very fair opening to let in evidence, as from the character of the counsel there was not the least reason to suspect any collusion. The arguments, however, of Mr. Dyson and others, not to hear evidence, prevailed by 57 to 17.

March 8. The counsel for the city of London were called in, and produced a grant of Henry 7, to the city, of all the soil, and bed of the river Thames, within the liberties of the city; this they said extended from Staines-bridge to a place in Kent, near the Medway, as the city were known, by common right, time immemorial, conservators of the river for that extent. They produced a lease granted by the city, 66 years ago, of a nook of the river at Vauxhall, under which lease rent was paid to this day. They also proved grants from the city to different people, of encroachments on the river. This they said was, if not an absolute proof of right and possession, yet such a claim as ought to stop the proceedings in the Durham Yard Bill, as it would take away from the city their property, which ought to be determined in the courts of law.

The counsel on the other side produced a grant from Charles 2, to the city, in which he reserved the bed of the river. This they said invalidated the former grant; that the grant of Henry 7 reached only to the soil of the river, within the city and suburbs, and not to as far as they

claimed a right of conservancy, which only related to the navigation and fishery; that the city had let their claim lie dormant for a long course of years; that the lease of the nook of the Thames was no more than an imposition of the city's, and as to the other grants they were only fines for encroachments; that the claim now made was of the most extensive nature, and would affect a prodigious property. It was confessed, that if the city had any sort of claim of right to the bed of the river, the Bill ought to be stopped till that right was tried, but it was denied they had the least species of right. Carried to commit the Bill, by 55 to 10.

April 11. The motion for reading the Bill a third time was opposed.

Mr. *Dunning* spoke long and well on the subject: he shewed from the beginning of the transaction all the bad steps that had been taken in it; that the city of London had produced a title, probable, if not conclusive, and that the House of Commons was not a place to decide legal controversies in; that at least there ought to have been a clause to reserve the rights of the city, if they had any, but that in this present case they had not adopted the common clause for that purpose, but had tied the city down to prosecute their claim in a certain court; had limited the time of trying it; had ordered an issue to be tried which was impossible for the city to succeed in; and if the city should succeed, had even then taken away their estate, as the clause in that case only ordered a satisfaction to be made for the damages they should actually sustain.

Mr. *Dyson* said, that the title was not in the least probable, but that even if it was, as this scheme was intended for the public good, that would supersede private property, and all that could be expected would be an adequate satisfaction, which was given by the saving clause.

Alderman *Townsend* shewed, that the evidence at the Committee by no means clearly proved that it could be for the public good, and that several witnesses had asserted to the contrary; that the managers of the Bill had been guilty of a parliamentary craft, in making this a public Bill, by which means they had prevented its being referred to the judges, as they knew very well the judges would never have agreed to so arbitrary a proceeding.

The Bill was passed by 44 to 14.

Protest against the Durham Yard Embankment Bill.] May 1. The Bill passed the House of Lords. Upon which, the following Protest was entered:

“Dissentient”

“1. Because we are convinced by the evidence, that the embankment proposed will not be a means of improving the navigation of the river, which is the ostensible object of the Bill: on the contrary, the idea suggested by the preamble of its increasing the rapidity of the stream, so as to remove the supposed obstructions to the navigation, appears to us equally unsupported, and indeed contradicted by the witnesses on both sides; and if it were admitted, would afford no argument in favour of a partial embankment, since the said bank, if removed from its present station and not carried entirely off, must settle in some other part of the river, not improbably in some part where it would be much more prejudicial to the navigation. And although it has been confidently asserted, on the part of the undertakers, that it will be in other respects advantageous to the navigation, the petitioners against the Bill have, with equal confidence, denied it, and suggested many inconveniences which they conceive it will occasion. These allegations we find it not more difficult to reconcile, than to decide between them with any kind of certainty on such evidence as we have heard. It is, however, to be observed, that the proposition comes from persons holding no office which calls upon them to advert to the state of the navigation, nor following any trades which interest them in its well or ill being; and that it is opposed by the concurrent petitions of the company of watermen, the corn-lightermen, and the coal-lightermen, whom we understand to be the principal navigators of this part of the river, and of the city of London, whose interests are obviously inseparable from those of the general navigation of the river, who have therefore been immemorially intrusted with the conservancy of it, and of whose conduct in the exercise of that office we have heard no complaint. Under these circumstances, we cannot but think it safer to leave the river in the condition in which it has hitherto been found sufficient for all the purposes of navigation, than to hazard an experiment to make it better, that may possibly be productive of mischiefs, in their nature irremediable, for which, at least, this Bill provides no remedy,

2. “All the arguments we have heard in favour of an embankment, whatever weight they may deserve, go to prove general not a partial embankment; and if the legislature should, at any time, see reason to adopt that idea, this Bill, instead of assisting, as has been supposed, cannot fail to obstruct the execution of it. 1st, As it precludes the choice of such a plan as, upon a full and proper consideration of the whole subject, may be found most eligible, and admits only of such a one as will coincide with the project to be established by this Bill, which on the face of the Bill itself appears to have been framed with a view to, and as part of, the adjacent buildings; the Bill reserving no power to require or direct any future alterations, however necessary. 2ndly, As it is not to be doubted that the precedent of this Bill will produce other applications to parliament (which cannot be consistently refused) for authority to embank such other parts of the river as the parties applying may find their account in embanking. After which, not only the difficulty of completing the work, so as to give any sort of consistency to so many unconnected schemes, and produce thereby the public advantage, which we are told is to result from the whole; but also the expence of embanking those parts, from whence no private emolument can arise, will be left a burthen on the public. Whereas, if this Bill was rejected, the whole work might at any time be executed, as all public works ought to be, upon one regular well-digested plan, under parliamentary inspection and controul; and that without a shilling charge to the public, the emoluments arising from such a work affording a fund amply sufficient to defray the whole expence attending it.

3. “We have hitherto treated this Bill, as if it was what the uninformed reader would be led to imagine it, a measure taking its rise from the public spirit of certain disinterested persons, who desired nothing but the authority of parliament to execute a project of great public utility, at their own private expence; but, after hearing the proofs and uncontradicted allegations at the bar, it would be ridiculous to consider the idea of public utility as any thing more than a pretext for the private advantage of individuals, who, having first laid their hands on what confessedly does not belong to them; having, by their own authority, excluded the public from the use they have hitherto enjoyed

of this part of the river; and having, in consequence, subjected themselves to public prosecutions, now actually depending, come to parliament to sanctify this injustice, and protect them against the consequences of this violence; and not content with impunity, are to be rewarded with a gift of the absolute property of what they have thus possessed themselves, which, in their hands, and when applied to the uses they have destined it, will be of immense value; and this without even the pretence of a title in themselves, or any better foundation than the consent which his Majesty, through the ill advice of his ministers, has been induced to give, on a supposition of the title to the soil still remaining in the crown, although that title has been disputed, and the property claimed, under ancient grants from former kings, by the city of London, and by the church of Westminster; in support of whose claims, particularly the former, much evidence was gone into at the bar, for more than was sufficient to the only purpose for which it is competent to the jurisdiction of either House of Parliament, acting legislatively, to discuss men's titles, that of shewing that the claim is not a mere pretext to obstruct the Bill.

4. "Whether we consider the Bill as a public Bill, which it affects to be, or as a private Bill, which it really is, we conceive it to be equally destitute of foundation in precedent or principle. It is undoubtedly true, that the parliament frequently does, and ought to make free with property, on the terms of compensation, whenever it is wanted for public purposes; but the public claim extends no further than the public occasion requires: if, therefore, there were any public reason for this embankment, and it were fit to entrust the execution of the work to private undertakers, we conceive it would be but just, that the emolument arising from thence should be given to the proprietors of the soil, if they chose to undertake it, in preference to any other who might apply for it; and, by parity of reason, if the property is doubtful, to those who have at least a colourable claim, in preference to those who have no claim at all. With regard to private Bills, we know of no instance in which parliament ever did interpose; and we conceive it will be an act of manifest injustice, whenever parliament shall interpose, to accommodate one man with the property of another, against his will, or even without his express consent. Such is the attention

of parliament to the preservation and protection of unknown and unclaimed rights, that no Bill for the regulation of private property is ever suffered to pass, though unopposed, without a general saving of all rights, except those of the parties petitioning for or consenting to the Bill; and when the regulation desired is opposed under a claim of title, if the evidence produced by the party opposing suffices to raise a doubt to whom the property belongs, the Bill proceeds no farther, but the parties are left to settle the doubt, and get it decided as they may in the courts below. We cannot, therefore, forbear to express our surprise and concern, that this Bill, sent up from the Commons without any such saving, should have passed this House without alteration, after so much evidence as was offered in support of the claims of the petitioners; and after the parliament had respectively declared their readiness to try those claims with the crown in the due course of law, both which claims the Bill itself recognizes as proper to be tried, and one of which, although they have been both treated as chimerical, the undertakers themselves were so far from thinking so, that they appeared in evidence to have been desirous of purchasing that of the city of London, at the price of an annual quit-rent of a farthing per foot.

5. "The saving clauses inserted in this Bill, if they can be so termed, serve only to shew, that in the idea of those who framed them, this was a Bill in which saving clauses were necessary, and that they were nevertheless determined so to frame them, as that they should be of no effect; for not to mention the obvious difference, to the disadvantages of the petitioners, between their provision and the general saving clause, which usually is, and always ought to be inserted in Bills where a saving clause is necessary, to deter the petitioners the more effectually from attempting to get through the embarrassments with which their right of suing is involved, the object of their suit is, by the terms of the provision, placed for ever out of their reach; and whether they succeed or miscarry, the property they contend for is to become at all events the property of the undertakers, and a verdict establishing the petitioners' titles is to be of no other use than to give them a claim to such a compensation as a jury may think fit to estimate, who will not fail to be told that they are to compute the soil as covered with

water, and subject to the public right of navigating over it. In order to give some colour to this extraordinary and unexampled provision, each of these clauses begins with asserting as a fact, that the petitioners had insisted on a compensation from the undertakers for the liberty of embanking; an assertion which the counsel for the petitioners flatly contradicted; of the truth of which, with regard to either of the petitioners, no evidence was offered on the part of the undertakers; and of the falsehood of which, with regard to the city of London, there can be no doubt, since, instead of claiming a compensation, it was not denied that it had been offered them, and they refused it. These clauses, therefore, we cannot but consider as a mockery of all the forms of parliamentary proceeding, and, with regard to the individuals whom they affect, as adding insult to oppression; and if we had no other objection to the Bill, we should think ourselves bound by the duty we owe to the petitioners, and to ourselves as members of this House, to protest against a proceeding of so alarming and dangerous an example to the property of the whole kingdom, naturally tending, as we conceive, to increase and justify the general want of confidence in the present parliament.—
(Signed) Wycomb, King, Tankerville.”

Debate in the Commons on the Bill for explaining the Powers of Juries in Prosecutions for Libels.] March 7. Mr. Dowdeswell moved, “That leave be given to bring in a Bill for settling doubts and controversies concerning the right of jurors, in trials of persons prosecuted for writing, printing, and publishing libels, and for securing to the subject the effectual and complete benefit of trial by juries in such cases.” He observed, that as doubts had arisen in the people’s minds respecting the power of juries in cases of libel; to remove those doubts, he should propose an enacting Bill, to put an end to those doubts and controversies upon that subject, which had unhappily distracted our courts; but that if gentlemen liked a Declaratory Bill better, he had left the matter open. He then read his enacting Bill, as follows:

“Whereas doubts and controversies have arisen at various times concerning the right of jurors to try the whole matter laid in indictments and informations for seditious and other libels; and whereas trials by juries would be of none or imper-

fect effect if the jurors were not held to be competent to try the whole matter aforesaid, for settling and clearing such doubts and controversies, and for securing to the subject the effectual and complete benefit of trial by juries in such indictments and informations: be it enacted, &c. That jurors duly impanelled and sworn to try the issue between the king and the defendant upon any indictment or information for a seditious libel, or a libel under any other denomination or description, shall be held and reputed competent to all intents and purposes, in law and in right, to try every part of the matter laid or charged in the said indictment or information, comprehending the criminal intention of the defendant and the civil tendency of the libel charged, as well as the mere fact of the publication thereof, and the application by inuendo of blanks, initial letters, pictures and other devices; any opinion, question, ambiguity, or doubt, to the contrary notwithstanding.”

Sir George Saville seconded the motion.

Upon this occasion,

Mr. Edmund Burke* spoke as follows:

Sir; I have always understood, that a superintendence over the doctrines, as well as the proceedings, of the courts of justice, was a principal object of the constitution of this House; that you were to watch at once over the lawyer and the law; that there should be an orthodox faith as well as proper works: and I have always looked with a degree of reverence and admiration on this mode of superintendence. For being totally disengaged from the detail of juridical practice, we come something, perhaps, the better qualified, and certainly much the better disposed to assert the genuine principle of the laws; in which we can, as a body, have no other than an enlarged and a public interest. We have no common cause of a professional attachment, or professional emulations, to bias our minds; we have no foregone opinions, which from obstinacy and false point of honour we think ourselves at all events obliged to support. So that with our own minds perfectly disengaged from the exercise, we may superintend the execution, of the national justice; which from this circumstance is better secured to the people than in any other country under heaven it can be. As our

* Burke’s Works, vol. 10, p. 109. 8vo edit. 1812.

situation puts us in a proper condition, our power enables us to execute this trust. We may, when we see cause of complaint, administer a remedy; it is in our choice by an address to remove an improper judge, by impeachment before the peers to pursue to destruction a corrupt judge, or by Bill to assert, to explain, to enforce, or to reform the law, just as the occasion and necessity of the case shall guide us. We stand in a situation very honourable to ourselves, and very useful to our country, if we do not abuse or abandon the trust, that is placed in us.

The question now before you is upon the power of juries in prosecuting for libels. There are four opinions. 1. That the doctrine as held by the courts is proper and constitutional, and therefore should not be altered. 2. That it is neither proper nor constitutional, but that it will be rendered worse by your interference. 3. That it is wrong, but that the only remedy is a Bill of retrospect. 4. The opinion of those, who bring in the Bill; that the thing is wrong, but that it is enough to direct the judgment of the court in future.

The Bill brought in is for the purpose of asserting and securing a great object in the juridical constitution of this kingdom; which from a long series of practices and opinions in our judges has in one point, and in one very essential point, deviated from the true principle.

It is the very ancient privilege of the people of England, that they shall be tried, except in the known exceptions, not by judges appointed by the crown, but by their own fellow-subjects, the peers of that county court, at which they owe their suit and service; and out of this principle the trial by juries has grown. This principle has not, that I can find, been contested in any case, by any authority whatsoever; but there is one case, in which, without directly contesting the principle, the whole substance, energy, and virtue of the privilege, is taken out of it; that is, in the case of a trial by indictment or information for a libel. The doctrine in that case, laid down by several judges, amounts to this; that the jury have no competence where a libel is alleged, except to find the gross corporeal facts of the writing and the publication, together with the identity of the things and persons, to which it refers; but that the intent and the tendency of the work, in which intent and tendency the whole criminality consists, is the sole and exclusive province of the judge. Thus

having reduced the jury to the cognizance of facts, not in themselves presumptively criminal, but actions neutral and indifferent, the whole matter, in which the subject has any concern or interest, is taken out of the hands of the jury: and if the jury take more upon themselves, what they so take is contrary to their duty; it is no moral, but a merely natural power; the same, by which they may do any other improper act, the same, by which they may even prejudice themselves with regard to any other part of the issue before them. Such is the matter, as it now stands, in possession of your highest criminal courts, handed down to them from very respectable legal ancestors. If this can once be established in this case, the application in principle to other cases will be easy; and the practice will run upon a descent, until the progress of an encroaching jurisdiction (for it is in its nature to encroach, when once it has passed its limits) coming to confine the juries, case after case, to the corporeal fact, and to that alone, and excluding the intention of mind, the only source of merit and demerit, of reward or punishment, juries become a dead letter in the constitution.

For which reason it is high time to take this matter into the consideration of parliament: and for that purpose it will be necessary to examine, first, whether there is any thing in the peculiar nature of this crime, that makes it necessary to exclude the jury from considering the intention in it, more than in others. So far from it, that I take it to be much less so from the analogy of other criminal cases, where no such restraint is ordinarily put upon them. The act of homicide is *prima facie* criminal. The intention is afterwards to appear, for the jury to acquit or condemn. In burglary do they insist that the jury have nothing to do but to find the taking of goods, and that if they do, they must necessarily find the party guilty, and leave the rest to the judge; and that they have nothing to do with the word *felonice* in the indictment?

The next point is to consider it as a question of constitutional policy; that is, whether the decision of the question of libel ought to be left to the judges as a presumption of law, rather than to the jury as matter of popular judgment, as the malice in the case of murder; the felony in the case of stealing. If the intent and tendency are not matters within the province of popular judgment, but legal and

technical conclusions, formed upon general principles of law, let us see what they are. Certainly they are most unfavourable, indeed totally adverse, to the constitution of this country.

Here we must have recourse to analogies; for we cannot argue on ruled cases one way or the other. See the history. The old books, deficient in general in crown cases, furnish us with little on this head. As to the crime, in the very early Saxon law, I see an offence of this species, called Folk-leasing, made a capital offence, but no very precise definition of the crime, and no trial at all: see the statute of 3d Edward 1, cap. 34. The law of libels could not have arrived at a very early period in this country. It is no wonder that we find no vestige of any constitution from authority, or of any deductions from legal science in our old books and records upon that subject. The statute of *scandalum magnatum* is the oldest that I know, and this goes but a little way in this sort of learning. Libelling is not the crime of an illiterate people. When they were thought no mean clerks, who could read and write; when he, who could read and write, was presumptively a person in holy orders, libels could not be general, or dangerous; and scandals merely oral could spread little, and must perish soon. It is writing, it is printing more emphatically, that imps calumny with those eagle wings, on which, as the poet says, "immortal slanders fly." By the press they spread, they last, they leave the sting in the wound. Printing was not known in England much earlier than the reign of Henry 7, and in the 3d year of that reign the court of Star Chamber was established. The press and its enemy are nearly coeval. As no positive law against libels existed, they fell under the indefinite class of misdemeanors. For the trial of misdemeanors that court was instituted; their tendency to produce riots and disorders was a main part of the charge, and was laid, in order to give the court jurisdiction chiefly against libels. The offence was new. Learning of their own upon the subject they had none; and they were obliged to resort to the only emporium, where it was to be had, the Roman law. After the Star Chamber was abolished in the 10th of Charles 1, its authority indeed ceased, but its maxims subsisted and survived it. The spirit of the Star Chamber has transmigrated and lived again; and Westminster-hall was

obliged to borrow from the Star Chamber for the same reasons as the Star Chamber had borrowed from the Roman Forum because they had no law, statute, or tradition, of their own. Thus the Roman law took possession of our courts; I mean its doctrine, not its sanctions; the severity of capital punishment was omitted, all the rest remained. The grounds of these laws are just and equitable. Undoubtedly the good fame of every man ought to be under the protection of the laws, as well as his life, and liberty and property. Good fame is an out-work, that defends them all, and renders them all valuable. The law forbids you to revenge; when it ties up the hands of some, it ought to restrain the tongues of others. The good fame of government is the same; it ought not to be traduced. This is necessary in all government; and if opinion be support, what takes away this destroys that support; but the liberty of the press is necessary to this government.

The wisdom, however, of government is of more importance, than the laws. I should study the temper of the people before I ventured on actions of this kind. I would consider the whole of the prosecution of a libel of such importance as Junius, as one piece, as one consistent plan of operations; and I would contrive it so, that, if I were defeated, I should not be disgraced; that even my victory should not be more ignominious than my defeat; I would so manage, that the lowest in the predicament of guilt should not be the only one in punishment. I would not inform against the mere vender of a collection of pamphlets. I would not put him to trial first, if I could possibly avoid it. I would rather stand the consequences of my first error, than carry it to a judgment, that must disgrace my prosecution, or the court. We ought to examine these things in a manner, which becomes ourselves, and becomes the object of the enquiry; not to examine into the most important consideration, which can come before us, with minds heated with prejudice, and filled with passions, with vain popular opinions and humours; and when we propose to examine into the justice of others, to be unjust ourselves.

An enquiry is wished, as the most effectual way of putting an end to the clamours and libels, which are the disorder and disgrace of the times. For people remain quiet, they sleep secure, when they imagine that the vigilant eye of a

censorial magistrate watches over all the proceedings of judicature; and that the sacred fire of an eternal constitutional jealousy, which is the guardian of liberty, law and justice, is alive night and day, and burning in this House. But when the magistrate gives up his office and his duty, the people assume it, and they enquire too much, and too irreverently, because they think their representatives do not enquire at all.

We have in a libel, 1st, The writing. 2d. The communication, called by the lawyers the publication. 3d, The application to persons and facts. 4th, The intent and tendency. 5th, The matter,—diminution of fame. The law-presumptions on all these are in the communication. No intent can make a defamatory publication good, nothing can make it have a good tendency; truth is not pleadable. Taken juridically the foundation of these law-presumptions is not unjust; taken constitutionally they are ruinous, and tend to the total suppression of all publication. If juries are confined to the fact, no writing, which censures, however justly, or however temperately, the conduct of administration, can be unpunished. Therefore if the intent and tendency be left to the judge, as legal conclusions growing from the fact, you may depend upon it you can have no public discussion of a public measure; which is a point, which even those, who are most offended with the licentiousness of the press (and it is very exorbitant, very provoking) will hardly contend for.

So far as to the first opinion, that the doctrine is right and needs no alteration. 2. The next is, that it is wrong, but that we are not in a condition to help it. I admit it is true, that there are cases of a nature so delicate and complicated, that an act of parliament on the subject may become a matter of great difficulty. It sometimes cannot define with exactness; because the subject matter will not bear an exact definition. It may seem to take away every thing, which it does not positively establish, and this might be inconvenient; or it may seem, *vice versa*, to establish every thing, which it does not expressly take away. It may be more advisable to leave such matters to the enlightened discretion of a judge, awed by a censorial House of Commons. But then it rests upon those, who object to a legislative interposition, to prove these inconveniences in the particular case before

[VOL. XVII.]

them. For it would be a most dangerous, as it is a most idle and most groundless, conceit to assume as a general principle, that the rights and liberties of the subject are impaired by the care and attention of the legislature to secure them. If so, very ill would the purchase of Magna Charta have merited the deluge of blood, which was shed in order to have the body of English privileges defined by a positive written law. This charter, the inestimable monument of English freedom, so long the boast and glory of this nation, would have been at once an instrument of our servitude, and a monument of our folly, if this principle were true. The thirty-four confirmations would have been only so many repetitions of their absurdity, so many new links in the chain, and so many invalidations of their right.

You cannot open your statute book without seeing positive provisions relative to every right of the subject. This business of juries is the subject of not fewer than a dozen. To suppose that juries are something innate in the constitution of Great Britain, that they have jumped, like Minerva, out of the head of Jove in complete armour, is a weak fancy supported neither by precedent nor by reason. Whatever is most ancient and venerable in our constitution, royal prerogative, privileges of parliament, rights of elections, authority of courts, juries, must have been modelled according to the occasion. I spare your patience, and I pay a compliment to your understanding, in not attempting to prove that any thing so elaborate and artificial as a jury was not the work of chance, but a matter of institution brought to its present state by the joint efforts of legislative authority and juridical prudence. It need not be ashamed of being (what in many parts of it at least it is) the offspring of an act of parliament, unless it is a shame for our laws to be the results of our legislature. Juries, which sensitively shrink from the rude touch of parliamentary remedy, have been the subject of not fewer than, I think, 43 acts of parliament, in which they have been changed with all the authority of a creator over its creature, from Magna Charta to the great alterations, which were made in the 29th of George 2.

To talk of this matter in any other way is to turn a rational principle into an idle and vulgar superstition, like the antiquary, Dr. Woodward, who trembled to have his shield scoured for fear it should be disco-

[E]

vered, to be no better than an old pot-lid. This species of tenderness to a jury puts me in mind of a gentleman of good condition, who had been reduced to great poverty and distress; application was made to some rich fellows in his neighbourhood to give him some assistance; but they begged to be excused for fear of affronting a person of his high birth; and so the poor gentleman was left to starve out of pure respect to the antiquity of his family. From this principle has arisen an opinion, that I find current amongst gentlemen, that this distemper ought to be left to cure itself; that the judges having been well exposed, and something terrified on account of these clamours, will entirely change, if not very much relax from their rigour; if the present race should not change, that the chances of succession may put other more constitutional judges in their place; lastly, if neither should happen, yet that the spirit of an English jury will always be sufficient for the vindication of its own rights, and will not suffer itself to be overborne by the bench. I confess that I totally dissent from all these opinions. These suppositions become the strongest reasons with me to evince the necessity of some clear and positive settlement of this question of contested jurisdiction. If judges are so full of levity, so full of timidity, if they are influenced by such mean and unworthy passions, that a popular clamour is sufficient to shake the resolution they build upon the solid basis of a legal principle, I would endeavour to fix that mercury by a positive law. If to please an administration the judges can go one way to-day, and to please the crowd they can go another to-morrow; if they will oscillate backward and forward between power and popularity, it is high time to fix the law in such a manner as to resemble, as it ought, the great Author of all law, in whom there is no variableness nor shadow of turning.

As to their succession, I have just the same opinion. I would not leave it to the chances of promotion, or to the characters of lawyers, what the law of the land, what the rights of juries, or what the liberty of the press should be. My law should not depend upon the fluctuation of the closet, or the complexion of men. Whether a black-haired man or a fair-haired man presided in the court of King's-bench, I would have the law the same; the same, whether he was born in *domo regnatrice*, and sucked from his infancy the milk of

courts, or was nurtured in the rugged discipline of a popular opposition. This law of court cabal and of party, this '*mens quædam nullo perturbata effectu*,' this law of complexion, ought not be endured for a moment in a country, whose being depends upon the certainty, clearness, and stability of institutions.

Now I come to the last substitute for the proposed Bill, the spirit of juries operating their own jurisdiction. This I confess I think the worst of all for the same reasons, on which I objected to the others; and for other weighty reasons besides, which are separate and distinct. First, because juries, being taken at random out of a mass of men infinitely large, must be of characters as various as the body they arise from is large in its extent. If the judges differ in their complexions, much more will a jury. A timid jury will give way to an awful judge delivering oracularly the law, and charging them on their oaths, and putting it home to their consciences, to beware of judging, where the law had given them no competence. We know that they will do so, they have done so in an hundred instances; a respectable member of your own House, no vulgar man, tells you that on the authority of a judge he found a man guilty, in whom at the same time he could find no guilt. But supposing them full of knowledge and full of manly confidence in themselves, how will their knowledge, or their confidence, inform or inspirit others? They give no reason for their verdict, they can but condemn or acquit; and no man can tell the motives, on which they have acquitted or condemned. So that this hope of the power of juries to assert their own jurisdiction must be a principle blind, as being without reason, and as changeable as the complexion of men, and the temper of the times.

But after all, is it fit that this dishonourable contention between the court and juries should subsist any longer? On what principle is it that a jury refuses to be directed by the court as to its competence? Whether a libel or no libel be a question of law or of fact may be doubtful, but a question of jurisdiction and competence is certainly a question of law; on this the court ought undoubtedly to judge, and to judge solely and exclusively. If they judge wrong from excusable error, you ought to correct it, as to-day it is proposed, by an explanatory Bill; or if by corruption, by Bill of penalties decla-

ratory, and by punishment. What does a juror say to a judge when he refuses his opinion upon a question of judicature? You are so corrupt, that I should consider myself a partaker of your crime, were I to be guided by your opinion; or you are so grossly ignorant, that I, fresh from my hounds, from my plough, my counter, or my loom, am fit to direct you in your own profession. This is an unfitting, it is a dangerous state of things. The spirit of any sort of men is not a fit rule for deciding on the bounds of their jurisdiction. First, because it is different in different men, and even different in the same at different times; and can never become the proper directing line of law: next, because it is not reason, but feeling; and when once it is irritated, it is not apt to confine itself within its proper limits. If it becomes, not difference in opinion upon law, but a trial of spirit between parties, our courts of law are no longer the temple of justice, but the amphitheatre for gladiators. No—God forbid! Juries ought to take their law from the bench only; but it is our business that they should hear nothing from the bench but what is agreeable to the principles of the constitution. The jury are to hear the judge, the judge is to hear the law where it speaks plain; where it does not, he is to hear the legislature. As I do not think these opinions of the judges to be agreeable to those principles, I wish to take the only method, in which they can or ought to be corrected, by Bill.

Next, my opinion is, that it ought to be rather by a bill for removing controversies, than by a bill in the state of manifest and express declaration, and in words *de præterito*. I do this upon reasons of equity and constitutional policy. I do not want to censure the present judges. I think them to be excused for their error. Ignorance is no excuse for a judge; it is changing the nature of his crime; it is not absolving. It must be such error as a wise and conscientious judge may possibly fall into, and must arise from one or both these causes—1. A plausible principle of law. 2. The precedents of respectable authorities, and in good times. In the first, the principle of law, that the judge is to decide on law, the jury to decide on fact, is an ancient and venerable principle and maxim of the law; and if supported in this application by precedents of good times and of good men, the judge, if wrong, ought to be corrected; he ought

not to be reprov'd, or to be disgraced, or the authority or respect to your tribunals to be impaired. In cases, in which declaratory bills have been made, where by violence and corruption some fundamental part of the constitution has been struck at; where they would damn the principle, censure the persons, and annul the acts—but where the law having been by the accident of human frailty depraved, or in a particular instance misunderstood, where you neither mean to rescind the acts nor to censure the persons, in such cases you have taken the explanatory mode, and, without condemning what is done, you direct the future judgment of the court.

All bills for the reformation of the law must be according to the subject matter, the circumstances, and the occasion, and are of four kinds—1. Either the law is totally wanting, and then a new enacting statute must be made to supply that want. Or, 2. It is defective, then a new law must be made to enforce it. 3. Or it is opposed by power or fraud, and then an act must be made to declare it. 4. Or it is rendered doubtful and controverted, and then a law must be made to explain it. These must be applied according to the exigence of the case; one is just as good as another of them. Miserable indeed would be the resources, poor and unfurnished the stores and magazines of legislation, if we were bound up to a little narrow form, and not able to frame our acts of parliament according to every disposition of our own minds and to every possible emergency of the commonwealth; to make them declaratory, enforcing, explanatory, repealing, just in what mode or in what degree we please.

Those, who think that the judges living and dead are to be condemned; that your tribunals of justice are to be dishonoured; that their acts and judgments on this business are to be rescinded; they will undoubtedly vote against this Bill, and for another sort.

I am not of the opinion of those gentlemen, who are against disturbing the public repose; I like a clamour whenever there is an abuse. The fire-bell at midnight disturbs your sleep, but it keeps you from being burned in your bed. The hue and cry alarms the county, but it preserves all the property of the province. All these clamours aim at redress. But a clamour made merely for the purpose of rendering the people discontented with their situa-

tion, without an endeavour to give them a practical remedy, is indeed one of the worst acts of sedition.

I have read and heard much upon the conduct of our courts in the business of libels. I was extremely willing to enter into, and very free to act, as facts should turn out on that inquiry, aiming constantly at remedy as the end of all clamour, all debate, all writing, and all inquiry; for which reason I did embrace, and do now with joy, this method of giving quiet to the courts, jurisdiction to juries, liberty to the press, and satisfaction to the people. I thank my friends for what they have done; I hope the public will one day reap the benefit of their pious and judicious endeavours. They have now sown the seed; I hope they will live to see the flourishing harvest. Their Bill is sown in weakness, it will, I trust, be reaped in power. And then, however we shall have reason to apply to them what my lord Coke says was an aphorism continually in the mouth of a great sage of the law, "Blessed be not the complaining tongue, but, blessed be the amending hand."*

* An incorrect report of this Speech having appeared in the Public Advertiser of the 13th of March 1771, Mr. Burke wrote the following Letter to the Editor of one of the public Journals. See Burke's Works, vol. 10, p. 129, 8vo edit. 1812.

"An improper and injurious account of the Bill brought into the House of Commons by Mr. Dowdeswell has lately appeared in one of the public papers. I am not at all surprised at it; as I am not a stranger to the views and politics of those, who have caused it to be inserted.

"Mr. Dowdeswell did *not* bring in an *enacting bill* to give to juries, as the account expresses it, a power to try law and fact in matter of libel. Mr. Dowdeswell brought in a bill to put an end to those doubts and controversies upon that subject, which have unhappily distracted our courts, to the great detriment of the public, and to the great dishonour of the national justice.

"That it is the province of the jury, in informations and indictments for libels, to try nothing more than the fact of the composing, and of the publishing averments and innuendos, is a doctrine held at present by all the judges of the King's-bench, probably by most of the judges of the kingdom. The same doctrine has been held pretty uniformly since the Revolution; and it prevails more or less with the jury according to the degree of respect, with which they are disposed to receive the opinions of the bench.

"This doctrine, which, when it prevails, tends to annihilate the benefit of trial by jury, and when it is rejected by juries tends to weaken

The friends of the Bill urged the necessity of it beyond doubt or controversy; because it did appear, from a late Paper given by lord Mansfield to the House of Lords, that it was the opinion of all the Judges of the King's-Bench, that the jury should determine only the fact, and the law should be left to the judges; that **this** was not only the opinion of the judges, but that, in a former debate, all the ministerial lawyers and leaders had supported the same; that the doctrine was dangerous in the highest degree, as encroaching on the palladium of English liberty, the trial by jury, as leaving the essence of the cause to the determination of interested men, the judges; that this doctrine, now adopted by the judges, was not of older date than the reign of queen Anne. In queen Elizabeth's reign, there was a remarkable case, which shewed the contrary to be the opinion then (an indictment of a grand jury at Lincoln, which found a true bill as to the fact, but no true bill as to the malice, &c. This the judges, at that time, determined to be no true bill; by which they determined, that the jury

and disgrace the authority of the judges, is not a doctrine proper for an English judicature. For the sake both of judge and jury the controversy ought to be quieted, and the law ought to be settled in a manner clear, definitive, and constitutional, by the only authority competent to it, the authority of the legislature.

"Mr. Dowdeswell's bill was brought in for that purpose. It gives to the jury no *new* powers; but, after reciting the doubts and controversies (which nobody denies actually to subsist), and after stating that, if juries are not reputed competent to try the whole matter, the benefit of trial by jury will be of none, or imperfect, effect, it enacts, not that the jury *shall* have the power, but that they shall be *held and reputed in law and right competent*, to try the whole matter laid in the information. The bill is directing to the judges concerning the opinion in law, which they are known to hold upon this subject; and does not in the least imply that the jury were to derive a new right and power from that bill, if it should have passed into an act of parliament. The implication is directly the contrary; and is as strongly conveyed as it is possible for those to do, who state a doubt and controversy, without charging with criminality those persons, who so doubted, and so controverted.

"Such a style is frequent in acts of this nature; and is that only, which is suited to the occasion. An insidious use has been made of the words *enact* and *declare*, as if they were formal and operative words of force to distinguish different species of laws producing different effects. Nothing is more groundless;

were judges of the law as well as the fact); that in the famous case of the Seven Bishops, in the reign of James the 2d, the judges, though made for the purpose, unanimously concurred in directing the jury to judge of the whole of the informa-

tion, as well the law as the facts; that whenever the jury had thought proper to dispute the affair with the judges, the jury had always got the better; and that a law, establishing this doctrine, would put an end to this dispute.

and I am persuaded no lawyer will stand to such an assertion. The gentlemen, who say that a bill ought to have been brought in upon the principle, and in the style of the Petition of Right, and Declaration of Right, ought to consider how far the circumstances are the same in the two cases; and how far they are prepared to go the whole lengths of the reason of those remarkable laws. Mr. Dowdeswell and his friends are of opinion that the circumstances are not the same, and that therefore the bill ought not to be the same.

"It has been always disagreeable to the persons, who compose that connexion, to engage wantonly in a paper war, especially with gentlemen, for whom they have an esteem, and who seem to agree with them in the great grounds of their public conduct: but they can never consent to purchase any assistance from any persons by the forfeiture of their own reputation. They respect public opinion; and therefore whenever they shall be called upon, they are ready to meet their adversaries, as soon as they please, before the tribunal of the public, and there to justify the constitutional nature and tendency, the propriety, the prudence, and the policy of their bill. They are equally ready to explain and to justify all their proceedings in the conduct of it; equally ready to defend their resolution to make it one object (if ever they should have the power) in a plan of public reformation.

"Your correspondent ought to have been satisfied with the assistance, which his friends have lent to administration in defeating that bill. He ought not to make a feeble endeavour (I dare say much to the displeasure of those friends) to disgrace the gentleman who brought it in. A measure, proposed by Mr. Dowdeswell, seconded by sir George Savile, and supported by their friends, will stand fair with the public, even though it should have been opposed by that list of names (respectable names I admit), which have been printed with so much parade and ostentation in your papers.

"It is not true that Mr. Burke spoke in praise of lord Mansfield. If he had found any thing in lord Mansfield praiseworthy, I fancy he is not disposed to make an apology to any body for doing justice. Your correspondent's reason for asserting it is visible enough; and it is altogether in the strain of other misrepresentations. That gentleman spoke decently of the judges, and he did no more: most of the gentlemen, who debated on both sides, held the same language; and nobody will think their zeal the less warm or the less effectual, because it is not attended with scurrility and virulence."

The ministry did not say a single word in the dispute, but the debate was taken up by the gentlemen of the minority. Captain Phipps spoke very well, and with great spirit. Sir William Meredith was very severe upon Mr. Mackworth, respecting the case of Mr. Almon, who had been unjustly prosecuted. Mr. James Grenville, jun. spoke inimitably well for his first essay; also Mr. Popham and others. There was not one of them who did not enforce the doctrine, that juries are judges of law as well as fact, but disapproved of the present motion for various reasons. That the doctrine, being established on the foundation of the common law, did not require the assistance of the statute law to defend it: that, if a Bill of this nature was brought into the House, and afterwards rejected, it might have very bad effects on the minds of the people, as it might be supposed that the doctrine was doubtful. That an enacting law would make it appear, that this was a novel doctrine, which few in the House could concur in; and that if made declaratory only, the judges, who had acted on principles contrary to such declaration, would be liable to condign punishment, which the friends of the motion did seem to wish.

For these reasons, the question of adjournment being put, the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir William Meredith - }	218
	{ Captain Phipps - - - }	
NOES	{ Sir William Codrington }	72
	{ Mr. Coxe - - - }	

So it was resolved in the affirmative, and the House adjourned.

PROCEEDINGS IN THE COMMONS
AGAINST THE PRINTERS FOR PUBLISHING THE DEBATES.*] February 8.

* "In the latitude now taken, the publishers of newspapers had for some time inserted certain performances, as speeches of the members of parliament, which in the House had been denied, some of them in the whole, all of them in many essential parts, to be genuine; but if they had been the truest representation of the sentiments and expressions of the speakers, such publication was yet contrary to a standing

Colonel George Onslow made a Complaint to the House, of the printed Newspapers, entitled, "The Gazetteer and New Daily Advertiser, Friday, February 8, 1771," printed for R. Thompson; and also of the printed Newspaper, intituled, "The

order of the House of Commons. A complaint on these grounds was laid against two of them by one of the members, and a motion carried upon a division for proceeding against them. The printers were accordingly ordered to attend, which they did not comply with; other notices were served, and different questions arose upon the mode of serving them; the messenger had not seen the printers, and left the order for their attendance with their servants: at length a final order was issued, and the leaving it at their houses was to be deemed a sufficient notice.

"The whole of this measure had been strongly opposed, as well upon its introduction, as upon the questions that arose in the different stages of its progress: though the abuse of the press was acknowledged, it was said, that this was an improper time, in the present temper and disposition of the people, to commit the question of privilege to an unnecessary discussion, and to administer new opportunities for a popular opposition to the branches of legislature, as well as to executive government; that prosecutions of this nature, instead of putting an end to the practice, would increase it, as they would promote the sale of the libels, which was known to be the case in some recent instances; that the ministerial writers were publicly encouraged to the most flagrant abuses of the press; and that while this was done in one instance, whereby some of the most respectable characters in the kingdom were mangled, without regard to shame or to truth, it was in vain to curb it in other cases, or to say to licentiousness, So far shalt thou go, but no further: and that though misrepresentations of any member were undoubtedly infamous, they ought to be legally punished by the person injured, and not by the authority of the House, which, however well supported by precedent, not being conducted by the ordinary forms of legal proceeding, had generally an odious and oppressive appearance.

"On the other hand, the enormity of the abuse was insisted on; that it was prejudicial to the interest of gentlemen in their boroughs; that it had never been practised before during the sitting of parliament, and when done in the intervals, had been always conducted with decency; and that it was now become absolutely necessary, either to punish the offenders severely, or to reverse the standing order, which had not only been disobeyed, but violently and outrageously insulted.

"The final order to the printers, having been attended with as little success as the former notices had been, a motion was made that they should be taken into the custody of

Middlesex Journal, or Chronicle of Liberty, from Tuesday, February 5, to Thursday, February 7, 1771," printed for J. Wheble; as misrepresenting the Speeches, and reflecting on several of the members of this House, in contempt of

the Serjeant at Arms, for contempt of the orders of the House.—This was opposed, as persevering in a measure originally bad, and which would grow continually worse by the conduct that was pursued; and that it was highly impolitic to provoke the people by a needless display of authority, at a time when they were already too much heated and alarmed, and watched every exercise of power with the utmost jealousy and suspicion, especially in the House of Commons, which, since the business of the Middlesex election, the people were but too apt to consider rather as an instrument of the court than the representative of the people. To this it was answered, that notwithstanding the unjust and groundless suspicions of the vulgar, the dignity of the House must be supported; and that as the order had been made, it must now vindicate its own conduct, by enforcing obedience to it. The question being put, was carried, as every other had been upon this subject, by a prodigious majority.

"The Serjeant at Arms not having been able to meet with the delinquents, and having been besides laughed at by their servants, made his report accordingly to the House; upon which it was resolved to address for a royal proclamation against them, together with a reward for their apprehension; which being done, the proclamation was accordingly issued in the Gazette, and a reward of fifty pounds a piece offered for taking the delinquents.

"As if the original affair had not been capable of affording sufficient trouble, the gentleman who introduced it, had now the fortune to find out six other printers, who were equally culpable with the two first, and accordingly moved to proceed against them. This motion was opposed with great earnestness: it was recommended to consideration, that they had already attempted to punish two, who had eluded their vigilance, and would probably gain a victory over the House; that the honour and dignity of parliament should never be committed on so slight a ground as that of a general order; that as the members for whom the printed speeches had been made, had not made any particular complaint of the injuries done them, the House in general had no business to take it up; and that the different publishers of newspapers throughout England, who were a numerous body, were all under the same predicament with those complained of, and if there was a general prosecution raised against them, the whole time of the House would be taken up, and its attention diverted from all matters of moment, to a ridiculous contest with a set of printers.

the order, and in breach of the privilege, of the House. He read a paragraph from the said Papers, in which he was said to have made a motion to stop the liberty of the press, by preventing the Speeches of the members being printed during the session.

"Some gentlemen however did not rest their opposition on the points of decorum and prudence; but went so far as to deny the authority of the House in this respect, and said that it was an usurpation assumed in bad times, in the year 1641; that while their privileges and authority were used in defence of the rights of the people, against the violence of the prerogative, all men willingly joined in supporting them, and even their usurpations were considered as fresh securities to their independence; but now that they saw their own weapons converted to instruments of tyranny and oppression against themselves, they would oppose them with all their might, and however they may fail in the first efforts, would finally prevail, and assuredly bring things back to their first principles. They also said, that the practices of letting the constituents know the parliamentary proceedings of their representatives, was founded upon the truest principles of the constitution; and that even the publishing of supposed speeches, was not a novel practice, and, if precedent was a justification, could be traced to no less an authority than lord Clarendon.

"Long prescription, and established usage, the principal foundations of the whole common law, were thought sufficiently conclusive, as to the powers assumed by the House; and the necessity of supporting its dignity and authority, to be equally so, in regard to the propriety of their exercise of them in the present instance. The question with respect to the first printer upon the list was accordingly carried by a great majority; upon which those gentlemen who were averse to the whole of these proceedings, finding themselves unable to restrain the present ferment, and being uncertain to what pitch it might be carried, unwilling, as they said, on one hand to decide against the powers of the House, or on the other to abuse them by an unseasonable and injudicious exertion, they with great dexterity availed themselves of their knowledge in the parliamentary forms and rules, to procure that delay, which, they imagined, might give it time to subside. They accordingly, by motions for adjournment, and amendments to the different questions, protracted the debates to past four o'clock in the morning, during which the House had divided between 20 and 30 times, a circumstance perhaps hitherto unknown. The numbers ran upon these divisions, from 143 to 70, on the side of the majority, and from 55 to 10, on that of the minority: the result however was, that the six printers were finally ordered to attend the House.

"Of these printers, some were reprimanded,

He moved that it might be read, and the printers brought to justice for infringing a standing order of the House, against printing, in newspapers, the transactions of the House of Commons. It was observed, that this practice had got to an

one was in the custody of the Lords for a similar misdemeanor, and one did not attend, who was ordered to be taken into the custody of the Serjeant at Arms for contempt.

"A few days after Wheble, one of the two printers mentioned in the proclamation, was apprehended and carried before alderman Wilkes at Guildhall, and was by him discharged, and bound over in a recognizance to prosecute the captor for an assault and false imprisonment, who was also obliged to give bail for his appearance at the next sessions to answer for the offence. At the same time, the alderman wrote a letter to the earl of Halifax, who was then Secretary of State, to acquaint him with the transaction and the motives of his conduct, which were the illegality of apprehending Wheble in consequence of the proclamation, without any crime having been proved or charged against him, which, he said, was a direct violation of his rights as an Englishman, as well as of the chartered privileges of a citizen of London.

"Thompson, the other of these printers, was apprehended in the same manner, and discharged by alderman Oliver. The circumstances in both cases were exactly the same; the persons who apprehended them were of their own business, and probably acted under their direction; they both avowed the rewards to be the motives of their conduct, and obtained certificates from the magistrates to entitle them to receive the money at the Treasury; which, however, it was thought proper not to pay.

"The printer of the London Evening Post, who had not obeyed the last order, was apprehended in his own house, by a messenger of the House of Commons; whereupon he sent immediately for a constable, and the lord mayor being ill of the gout, they were carried before him to the Mansion-house, where the aldermen Wilkes and Oliver then were. The deputy Serjeant at Arms also attended, and demanded in the name of the Speaker, that both the messenger and the printer should be delivered up to him; this was refused by the lord mayor, who asked for what crime, and upon what authority, the messenger had arrested the printer? who answered, that he had done it by warrant from the Speaker; it was then asked, if it had been backed by a city magistrate? which being answered in the negative, the warrant was demanded, and after much altercation produced; and its invalidity being argued by the printer's counsel, the three magistrates present discharged him from confinement. His complaint for an assault and false imprisonment being then heard, and the facts proved and admitted, the messenger was asked

infamous height; that members were represented to the world as saying what they did not say; and that their interests in their boroughs were often hurt by it: that it had never been done in former times; even in the most violent opposition

for bail, which the Serjeant having refused to comply with, a warrant for his commitment to prison was made out, and signed by the lord mayor and the two aldermen; as soon as it was executed, the Serjeant then consented to the giving of bail, which was admitted.

“The account of this transaction excited great indignation. It was said to be a matter that struck at the very existence of the House of Commons; and that if the power of taking up persons by the Speaker’s warrant was taken away, it would be impossible ever to get witnesses, or others, to attend on their summons; that therefore it ought to be immediately proceeded into; and that no business, however important, should interrupt it: and it was moved, that the lord mayor should be ordered to attend in his place the next day. Most of the gentlemen in the minority joined in asserting the privileges of the House; but observed that these privileges were always odious when turned against the people; that these were not proper times to engage the honour of the House in a dispute with the city of London; that it required no oracle to foreshew the consequences which must naturally attend the silly ridiculous measure which has involved them in the present dilemma; which could only serve to irritate the people, without the possibility of a single good effect: but that they were to look to the Middlesex election, for the true source of that odium in which they were held by the people, and that general disposition to oppose their proceedings, and dispute their authority, which declared itself upon every occasion.

“The question for the lord mayor’s attendance, notwithstanding his illness, was carried by a great majority; it was proposed that the aldermen Wilkes and Oliver should be ordered to attend at the same time; but it was not admitted. The lord mayor justified his conduct upon his oath of office, by which he was obliged to preserve inviolate the franchises of the city; by the city charters, which exempt them from any law process being served but by their own officers; and by the confirmation of those charters, which were recognized by an act of parliament; that he was compelled by all these ties, as chief magistrate, to act the part which he had done; and desired to be heard by counsel, in respect to the charter and act of parliament; not so much on his own account, as on that of the city of London, of whose rights he was now the guardian.

“It was accordingly moved, that as the lord mayor had pleaded that what he did was in consequence of his oath, and the city charters, he might be admitted to be heard by counsel. It was said in support of this motion, that as

to sir Robert Walpole, no transaction or speeches were published, except during the intervals of parliament, and then only in a decent manner. That it was now absolutely necessary either to punish the offenders severely, or revise the standing order.

the lord mayor did not deny the privilege of the House, but only claimed a particular exemption from that privilege, under the sanction of charters and an act of parliament, it was properly a question to be debated by lawyers; that if the city really had this exemption, it was a direct answer to the accusation; and that an act of the whole legislature must undoubtedly lay aside any privilege of the House. The question was, however, over-ruled by the usual majority, upon the principle that counsel was never allowed to be heard against the privileges of the House, and that nothing could be argued upon this occasion, but an exemption of the city, which would be striking directly at the root of their authority.

“It was then moved, that the lord mayor’s clerk should attend with the book of minutes. To this it was opposed, that such a measure would be pre-judging the question against the lord-mayor, and declaring that the House had acted right, while the matter was yet in issue; that in cases of breach of the peace, there was no privilege; and that, if the mayor had acted right, and the city had the exemption in question, the seizing of Miller must be construed a breach of the peace, and the messenger could have no claim to privilege. They strongly urged, that the expunging a legal proceeding by the sole authority of the House, was totally to abrogate every idea of liberty, and to deprive the subject of the benefit of the trial of his cause by the law of the land. They said, that, if the privilege in question was legal, the courts were bound to take notice of it; if illegal, it ought not to be supported in the courts, nor in the House.

“To these arguments it was answered, that the honour of the House was concerned in the highest degree in the vindication of their own act; that, having ordered their messenger to apprehend Miller, he could not be guilty of an assault in the execution of his office; and that it was most disgraceful to the House to suffer their servant, who had equal protection with any member, or even with the Speaker, to remain a moment in confinement, or to meet with the smallest obstruction in the execution, or vexation in consequence, of any act of his office. This question was carried, as the rest had been,

“Another motion was made upon the subject of the lord-mayor’s being heard by counsel, and many reasons were strongly urged against the refusal; particularly the evident injustice that appeared upon the face of it, and its being contrary to the practice of all the courts of justice, where it was allowed even

The gentlemen in the minority acknowledged the abuse of the press in the present instance, but observed, that Cinna,* and some other ministerial writers, were amongst the foremost in abusing, personally, the most respectable gentlemen

in case of high-treason. On the other hand the refusal was supported by the custom of parliament, which was however originally founded upon a precedent brought from the arbitrary reign of Henry 8, but this was sufficient to over-rule the motion. The majority of the House, although they refused counsel, did not seem perfectly to acquiesce in their own measure; for it was immediately proposed and carried on the side of administration, that the lord mayor should be heard by counsel, so as they do not affect or controvert the privilege of the House; this excited the greatest indignation on the side of the minority, and was exclaimed against as a barefaced mockery; that it would be impossible to plead the lord mayor's case, without, in some degree, controverting the privilege of the House; and that it was as gross an insult upon him, as it was a ridicule upon justice, and every thing serious, to tell him he might employ counsel in every case he pleased, except the only one in which he wanted them. What had they to fear from hearing counsel on the point of privilege? Were they so much afraid that the matter would not bear discussion, that they would not suffer it to be argued, though themselves were to be the sole judges?

"The clerk, having attended with the minute-book of recognizances belonging to the lord-mayor's court, was ordered up to the table; and a motion having been made and carried for the purpose, he was obliged, being in the custody of the House, to erase the recognizance of Whittam, the messenger, out of the book; after which, a resolution was passed, that there should be no further proceedings at law in that case.

"Most of the gentlemen in opposition had quitted the House during this transaction, declaring that they would not be witnesses to such an unprecedented act of violence; that it was assuming and exercising a power of the most dangerous nature, with which the constitution had not entrusted any part of the legislature; and that the effacing of a record, stopping the course of justice, and suspending the law of the land, were among the heaviest charges that could be brought against the most arbitrary despot.

"The lord mayor, whose illness had for some days retarded this affair, having at length attended in his place, produced the charter, and copies of the oaths administered to the city magistrates; after which he said, that it was evident he could not have acted otherwise than

who differed from them. That prosecutions of this nature would only promote the sale of the libels, not put an end to the practice, as was seen in the case of Bingley: that perhaps it might be difficult to found a prosecution for publishing the

he did, without having violated his oath and his duty; that he had acted in defence of the laws of his country, which were manifestly invaded; and that he should always glory in having done so, let the consequences be as they would.

"It was then said, that the privileges and practice of parliament had at all times been invariably the same; that the only question now was, an exemption claimed by the city of London, through a charter derived from the crown; that the crown could convey no powers through that charter, which were not inherent in itself; and that it had no power over the privileges of that House. That their privileges were a check upon the other branches of the legislature; that, consequently, their cause was the cause of liberty, and of the people at large; and if the powers of the Commons were weakened, the security to liberty would be equally so. It was therefore moved, that the discharging J. Miller from the custody of the messenger, was a breach of privilege.

"To this the minority objected, lamenting the condition into which the House was brought, by their listening to every insidious motion, or every trifling cause, purposely designed to make them instruments of the passions of the court, and to render them odious, by continual contests with the people. That the business which was taken up by the House with so much levity and wantonness, would be productive to them of the most serious consequences. That many of the majority seemed sensible of the imprudence of the first complaint; yet, when it was in their power to retract decently, they chose to renew the attack, and to bring six printers before the House, when one had proved too many for them. That the design of the court to commit the House of Commons and the city of London in a contest, was but too obvious. That, having given into this snare, every step they advanced, their situation grew worse. Their passions were inflamed by opposition; but that they shewed at least as much weakness as violence in their anger. That they would infallibly lose that privilege they contended for with so much imprudence; a privilege which, whilst it is exerted with a constitutional spirit, and for wise purposes, might be necessary; but, when once grown odious, will be lost, and when once lost cannot be recovered.

"They said, that the whole proceeding against the lord mayor had been vitiated from the beginning, by refusing to hear counsel; that the matter could not therefore be decided in its present state; and the previous question was moved, to give the House time to revise

* A writer in the public prints at this time, under the patronage of the earl of Sandwich.

Speeches of members of parliament which never were made, and therefore were no speeches: that this was far from a new practice, having been authorized by Charles 1, whose minister, lord Clarendon, had made speeches, and published

their proceedings. This was, however, rejected by a majority of 182, the numbers being only 90 for the previous question, to 272 that were against it. The first resolution, together with the two following, were then passed,—that it was a breach of privilege to apprehend the messenger of the House executing his warrant, under pretence of an assault; and that it was a breach of privilege to hold the messenger to bail for such pretended assault.

“It was then proposed to proceed against Mr. Oliver, who was also a member, and had been refused counsel as well as the lord-mayor: it was objected, that it was then near one o'clock in the morning, and that no court of judicature in the world would proceed on a new trial at that hour; a motion was therefore made to adjourn: this was rejected by a great majority; and Mr. Oliver, being asked what he had to say in his defence, answered, that he owned and gloried in the fact laid to his charge; that he knew no justification could avert the punishment that was intended for him; he was conscious of having done his duty, and was indifferent as to the consequences; and, as he thought it in vain to appeal to justice, so he defied the threats of power.

“It was then moved, that he should be sent to the Tower; great heat arose upon this question; the severest censures, not without threats, were thrown out; above thirty gentlemen quitted the House in a body, with declarations of the utmost asperity. Some of those who cultivated an interest in the city declared, that, without regard to the present resolutions, they would now, in the same situation, act the part that Mr. Oliver did, and therefore they should all be sent to the Tower together. Several attempts were made from the other side, to bring Mr. Oliver to a submission, or at least an acknowledgment of error, thereby to give an opportunity of mitigating the punishment; but he continued inflexible, declaring that he had acted from law and principle, and therefore would never submit to an imputation of guilt. The question for his being sent to the Tower was at length put, and carried by 170 to 38, most of the minority having before quitted the House.

“The city of London had taken a most active and sanguine part in favour of its magistrates during these whole transactions. A court of common council had been held by a locum-tenens at Guildhall, by which public thanks in writing were presented to the lord mayor and the two aldermen, for having supported the privileges and franchises of the city, and defended our excellent constitution. A committee of four aldermen and eight commoners was also appointed, to assist them in

them as made by members of parliament, merely to misrepresent those members: that the practice of letting the constituents know the parliamentary behaviour of their representatives, was founded on the truest principles of the constitution,

making their defence, with instructions to employ such counsel as they should think proper upon this important occasion, and powers to draw upon the chamber of London for money. The crowds, which attended the magistrates upon the different occasions of their going and returning from the House of Commons, were amazingly great; the streets from the Mansion-house to Westminster re-echoed with shouts: nothing could be more flattering to minds eager for popularity, than the acclamations of applause and gratitude which they received upon these occasions; they were considered as sacrifices to public liberty, and the lord mayor was called the people's friend, the guardian of the city's right, and of the liberties of the nation.

“Two days after the commitment of Mr. Oliver to the Tower, the lord mayor with his committee attended at the House of Commons to receive his sentence; the crowd was prodigious, and great irregularities were committed; several gentlemen were insulted in the grossest manner, and some in very high office narrowly escaped with their lives: the sheriffs, though attended by the Westminster justices, and an army of constables, were insufficient to preserve order; and a knowledge that the guards, both horse and foot, had been previously prepared, and were ready to act, if called upon, had but little effect. It is said, that some violent spirits proposed that desperate and fatal resource of calling in the military; but providentially a happier temper prevailed in general. At length a number of the most popular gentlemen came out, and interfered personally in the crowd, and having taken great pains to remonstrate with the people upon the impropriety and danger of their conduct, and adjured them, by every thing that was dear and sacred to them, to disperse and retire to their respective homes, they succeeded so far, as to persuade them to retire to a greater distance from the avenues of the House, and to make no further disturbance.

“The confusion and disorder was however so great, that it was evening before the House could proceed to business. The order of the day, with respect to the lord mayor, being then called for, most of the principal gentlemen in the opposition declared, that, as he was not permitted to be heard by counsel, they considered it as a prohibition of justice; that for the same reason they could not be sufficiently informed of the strength of the plea, and therefore they would not stay to give judgment on it; and they accordingly quitted the House. The chief magistrate said, that he looked upon his case as already prejudged, and would there-

who even ought to know the particular votes they gave in every case, as the constituents had no other powers over their representatives, when once chosen, but to determine whether they were proper to be re-elected. That misrepresentations of

fore add nothing to what he had before urged in his defence.

"It was then said, that, though his crimes were of a higher nature than those of Mr. Oliver, yet in consideration of his ill state of health, it should only be moved to take him into the custody of the Serjeant at Arms. This intended favour was utterly disclaimed by the lord-mayor, who said, he wished for none; and that, whatever state his health might be in, he gloried in undergoing the same fate with his friend. The motion was accordingly amended, and the question for his commitment to the Tower carried by 202 against 39. The populace took his horses from the coach, and drew it to Temple-bar, though it was then midnight; and, having conceived some suspicion of the deputy Serjeant at Arms who attended him, when they got there they shut the gates, and informed his lordship that his company had been drawn to the utmost extent of their boundaries, and that they must now immediately get out. The chief magistrate comprehended the full extent of the danger they were in, and pledged his honour that the gentlemen with him were his particular friends, who were to accompany him home; upon which they proceeded to the Mansion-house with loud huzzas.

"The ministry had been frequently attacked for directing the whole weight of this prosecution against two only of the magistrates, while Mr. Wilkes, who was equally concerned with them, and had led the way in opposing the effects of the proclamation, was allowed to triumph in his contumacy. They were repeatedly asked, Whether they considered him as above or below the law? whether it was fear or contempt that procured an impunity to him, in a cause for which others were prosecuted with such unremitted violence!

"It seemed indeed that they were very cautious of involving themselves with that gentleman. He had been ordered to attend; upon which he wrote a letter, directed to the Speaker, that no notice had been taken in the order of his being a member, and that his attendance had not been desired in his place, both of which were indispensably necessary; that he now, in the name of his constituents, demanded his seat in parliament, when he would give a full detail of his conduct in this transaction, which would consequently amount to a complete justification of it. This letter was offered to the Speaker in the House, by a member; but, upon an idea of informality, after occasioning a long debate, it was neither received, nor admitted to be read. Other orders were issued for his attendance, of which he took no notice;

any member were infamous, but ought to be punished legally by the member so affected, and not by the hand of power and weight of the legislature, whose exercise of power was always odious and oppressive.

and, at length, a few days before the recess at Easter, he was ordered to attend on the 8th of April. At the same time, knowing that he would not attend, and not knowing how to punish his contumacy, they had got into a great difficulty; and no expedient occurred for freeing themselves from it, except one, that was more necessary than honourable. The House adjourned itself to the 9th, and thus passed over the day appointed for Wilkes to attend.

"These proceedings in the House gave nearly as little satisfaction to those who took a lead in them, as to those by whom they were opposed. It was said, that the House had been drawn to shew a disposition to the use of the strongest measures in support of their privileges; but that all their exertion had tended only to lower the opinion of their power in the estimation of the world. Their commands were not followed by obedience; their menaces were not accompanied by terror; their punishments, by being marks of honour with the people, were converted into rewards. They had indeed committed their members to the Tower; but this, extending no further, seemed to confine their power to their own walls: some had been bold enough to assert, that legally it ought to go no farther; that they themselves had seemed to admit the same thing in practice, since they suffered themselves to be insulted by every one abroad with perfect impunity.

"This state was admitted upon both sides. The opposition argued from thence, that they ought to desist as soon as possible from the course of measures, which had brought them into this disgraceful situation. The ministry, from the same facts, drew a different conclusion. They insisted, that they ought to pursue the course they had begun, until they had obtained a complete obedience to their orders, and a submissive acknowledgment of their undoubted privileges. This latter opinion prevailed. A special commission was appointed by ballot (a measure which had not been taken for a long time on any occasion) in order to the assertion and support of their dignity. Great expectations were formed of a committee, thus solemnly chosen for the decision of such important points, so very strongly controverted. The committee sat regularly for a long time. At length, when they came to make that report, on which the public attention was so earnestly fixed, it amounted (after an historical deduction from their Journals, of the instances in which the House had exerted the privilege of apprehension and imprisonment) to no more than a recommendation to the House, that J.

The question being put, that the said Papers be delivered in at the table, the House divided. The Yeas went forth.

Tellers.

YEAS { Colonel Onslow - - } 90
 { Mr. Dundas - - - }

NOES { Sir William Meredith } 55
 { Mr. Turner - - - }

So it was resolved in the affirmative. And the said papers were delivered in at the table accordingly; and several paragraphs therein were read.

Ordered, That the said R. Thompson and J. Wheble do attend this House upon Monday next.

Feb. 19. The order of the day being read, for the attendance of R. Thompson and J. Wheble; and the said R. Thompson and J. Wheble not attending, the messenger to whom the orders of the 8th instant were delivered, being called upon to give an account of the service thereof, acquainted the House, that he had served the orders of the said 8th of February, for the attendance of the said R. Thompson and J. Wheble, upon Monday the 11th instant; but that he had not served them with any further order for their attendance, on this day.

Colonel George Onslow then moved, "That R. Thompson not having attended this House, this day, in obedience to the orders of this House, is thereby guilty of a contempt of this House."

It was immediately objected, that the Printers could not be guilty of contempt of an order, unless they had been served with that order, which would suppose the House guilty of the highest injustice.

On the other hand, it was said, that this was the usual method of proceeding; that no other notice was ever served on the person ordered to attend, except the first order, and that from that day the person so summoned was supposed to be there, and not to be dismissed without order of the House.

However, as there seemed a difference in opinion on that head, Mr. Onslow said he was willing to withdraw his motion, and make another; that the printers be or-

Miller should be taken into custody. Nothing was done in consequence of this advice of the committee. The opposition threw out several bitter sarcasms on this miserable result of all the pretended vigour of the ministry; and thus ended this long-agitated and vexatious business." Annual Register.

dered to attend the House on Thursday next.

Mr. Dowdeswell, and the gentlemen in opposition, would not suffer the first motion to be withdrawn. They said, that it had been contended to be the custom of parliament, not to give notice of an adjourned order to attend the House; and as it would be the highest injustice to punish a person for not doing what he did not know he was required to do; it was necessary to put an absolute negative on the first motion, to shew that the House renounced the practice of such injustice.

Lord North warmly censured Mr. Dowdeswell for insisting upon this motion, which he said was a petty artifice to bring the House into a dilemma, either of condemning a man for not doing what he had not been ordered to do, or declaring, that a man who had been ordered to attend, and had disobeyed, was not guilty of contempt. To defeat this attempt, he moved to amend the motion, by leaving out all the words except "That R. Thompson," and adding, in their stead, "do attend this House on Thursday next."

On this the House divided. The Yeas went forth.

Tellers.

YEAS { Lord Lisburne - - } 115
 { Mr. Onslow - - - }

NOES { Mr. Turner - - - } 31
 { Mr. Dempster - - - }

So it was resolved in the affirmative.

Ordered, That J. Wheble do attend this House, at the same time.

Feb. 21. The several orders of the day being read, for the attendance of R. Thompson and J. Wheble; and they not attending, according to order, the messenger, to whom the said orders were delivered, being called upon to give an account of the service thereof, acquainted the House, That he went to the house of the said R. Thompson on Tuesday evening last, and being informed by his servant, that he was not at home, he left a copy of the order for the attendance of the said R. Thompson, with the said servant, and desired him to give the same to his master when he came home; that he, the said messenger, went again on Wednesday morning to the house of the said R. Thompson, and was again informed that he was not at home.

The said messenger also acquainted the House, that he went on Tuesday evening

last to the house of the said J. Wheble; that he was told he was not at home, but was expected every minute; that he waited at the house of the said J. Wheble some time; but he not returning, he, the messenger, left a copy of the order for the attendance of the said J. Wheble at his house, and desired it might be given him on his return; and that, on calling again on Wednesday morning at the house of the said J. Wheble, he was again informed that he was not at home.

The *Speaker* then observed, that as the Journals did not take sufficient notice of the method necessary to be taken, in cases of contempt, he thought proper to inform the House what was the custom in the courts below, that they never proceeded to punish for contempt, till they were certain, that the person had been personally served with their order; or that they had proper evidence, that the person had kept out of the way to avoid such service; that, in the present instance, there was not sufficient evidence of either; he therefore wished, that an order might be made for them to attend on Thursday next; and that the order being left at their House, should be a sufficient notice.

After some altercation, it was ordered, "That R. Thompson and J. Wheble do attend this House upon Tuesday next.

"That the service of the said order, by leaving a copy of the same at the usual place of abode of the said R. Thompson and J. Wheble be deemed equal to personal service, and be good service."

Feb. 26. The several orders of the day, for the attendance of R. Thompson and J. Wheble, being read; and the said R. Thompson and J. Wheble not attending, according to order, the messenger, to whom the said orders were delivered, being called upon, to give an account of the service thereof, acquainted the House, that he went to the house of the said J. Wheble, in Paternoster-row, on Thursday evening last; and being informed by his servant that he was not at home, he shewed the said servant the original order for the attendance of the said J. Wheble, and left a copy thereof with the said servant, and desired him to give the same to his master when he came home; which the said servant promised to do.

The said messenger also acquainted the House, That he went to the house of the said R. Thompson, in Newgate-street, on Thursday evening last; that he was told

he was not at home; and that then he shewed the original order for the attendance of the said R. Thompson to, and left a copy thereof with, his servant, and desired him to give the same to his master; which he likewise promised to do.

A motion was made, "That the said John Wheble be, for his contempt, in not obeying the order of this House, for his attendance on the House this day, taken into the custody of the Serjeant at Arms, or his deputy, attending this House."

This was opposed, as vindicating a matter bad in itself, and impolitic in the present situation of affairs, when every violent exercise of power met with the detestation of all good men; that those powers of the House to punish had been usurped by the House at times when they were principally made use of to preserve the independence of it from the crown, and at a time when the short duration of parliaments made that power less dreaded than the present.—The short answer was, that the House having made the order, it must be vindicated.

The House divided. The Yeas went forth.

Tellers.

YEAS	Mr. Onslow	- - -	} 160
	Mr. Cooper	- - -	
NOES	Mr. Ald. Sawbridge	-	} 17
	Mr. Ald. Townsend	-	

So it was resolved in the affirmative. A similar order was made with regard to R. Thompson.

List of the Minority.

Bernard, sir Rob.	Mauger, J.
Bailey, N. esq.	Oliver, R.
Barré, colonel	Standart, F.
Brett, sir Piercy	Savile, sir George
Burke, W.	Turner, Charles
Dowdeswell, rt. h. W.	Whitworth, R.
Dunning, J.	Wray, sir Cecil
Clayton, sir Rob.	TELLERS.
Cornwall, C. W.	Sawbridge, ald.
Jennings, colonel	Townshend, ald.

March 4. The deputy Serjeant at Arms being called upon to give an account of the service of the orders of the House of Tuesday last, for taking into custody John Wheble and R. Thompson, acquainted the House, that, though he had been several times at their respective houses, and had made diligent search after them, in order to take them into custody, he had not yet been able to meet with either of them.

On the motion of Colonel Onslow, it was resolved, That an humble Address be presented to his Majesty, that he will be graciously pleased to issue his royal proclamation,* for apprehending the said John Wheble and R. Thompson, with a promise of reward for the same.

March 12. Colonel Onslow finding himself disappointed in his attempt to punish the two printers, rose this day in his place, and said he had *three brace* of printers more. He then made complaint to the House, of the printed news-paper, intituled, The Morning Chronicle, and

* The following is a copy of the Proclamation, from the London Gazette, of March 9.

"By the KING. A PROCLAMATION, for apprehending John Wheble and R. Thompson.

"GEORGE R.

"Whereas on the 8th day of February last, complaint being made to the House of Commons of the printed newspaper, entitled, The Gazetteer and New Daily Advertiser, Friday, February 8, 1771, printed for R. Thompson; and also of the printed newspaper, entitled, The Middlesex Journal, or Chronicle of Liberty, from Tuesday, February 5, to Thursday, February 7, 1771, printed for J. Wheble, as misrepresenting the Speeches, and reflecting on several of the members of the said House, in contempt of the order, and in breach of the privilege of the said House; it was ordered, that the said J. Wheble and R. Thompson should attend the said House of Commons; and they not having obeyed the said order, it was thereupon ordered, by the said House of Commons, that the said J. Wheble and R. Thompson should be taken into the custody of the Serjeant at Arms attending the said House, or his deputy. And whereas the said deputy serjeant having informed the House, that he had not been able to meet with the said John Wheble and R. Thompson, or either of them, though he had been several times at their respective houses, and had made diligent search after them, to take them into custody, an humble address hath been presented to us by the knights, citizens, and burgesses, and the commissioners for shires and burghs, in parliament assembled, that we would be graciously pleased to issue our royal proclamation, for apprehending the said John Wheble and R. Thompson, with a promise of a reward for the same: we have thought fit, by and with the advice of our privy council, to issue this our royal proclamation, hereby requiring and commanding all our loving subjects whatsoever to discover and apprehend, or cause the said John Wheble and R. Thompson, or either of them, to be discovered and apprehended, and to carry him or them before some of our justices of the peace,

London Advertiser, Monday, March 4, 1771, printed for William Woodfall; The St. James's Chronicle, or British Evening Post, from Thursday, March 7, to Saturday March 9, 1771, printed by Henry Baldwin; The London Packet, or New Evening Post, from Wednesday, February 27, to Friday March 1, 1771, printed for T. Evans; The Whitehall Evening Post, from Thursday, February 28, to Saturday, March 2, 1771, printed and sold by T. Wright; The General Evening Post (London) from Thursday, March 7, to Saturday, March 9, 1771, sold by S. Bladon; and The London Evening Post,

or chief magistrates, of the county, town, or place, where he or they shall be apprehended, who are respectively required to secure the said John Wheble and R. Thompson, and thereof give speedy notice to one of our principal secretaries of state, to the end he or they may be forth-coming, to be dealt withal and proceeded against according to law. And for the prevention of an escape of the said John Wheble and R. Thompson, or either of them, into parts beyond the seas, we do require and demand all our officers of the customs, and other our officers and subjects of and in our respective ports and maritime towns and places within our kingdom of Great Britain, that they, and every of them, in their respective places and stations, be careful and diligent in the examination of all persons that shall pass or endeavour to pass beyond the seas; and if they shall discover the said John Wheble and R. Thompson, or either of them, then to cause him or them to be apprehended and secured, and give notice thereof as aforesaid. And we do hereby strictly charge and command all our loving subjects, as they will answer the contrary at their perils, that they do not any ways conceal, but do discover him or them, the said John Wheble and R. Thompson, to the end he or they may be secured. And for the encouragement of all persons to be diligent and careful in endeavouring to discover and apprehend the said John Wheble and R. Thompson, we do hereby further declare, that whosoever shall discover and apprehend the said John Wheble and R. Thompson, or either of them, within three weeks from the date hereof, and shall bring him or them, the said John Wheble and R. Thompson, before some justice of the peace or chief magistrate as aforesaid, shall have and receive, as a reward for the discovery, apprehending, and bringing the said John Wheble and R. Thompson, or either of them, before such justice of the peace or chief magistrate as aforesaid, the sum of 50*l.* for each; which our commissioners of our treasury are hereby required and directed to pay accordingly.

"Given at our court at St. James's the 8th day of March, 1771, in the 11th year of our reign. God save the KING."

from Thursday, March 7, to Saturday March 9, 1771, printed for J. Miller; as containing the Debates, and misrepresenting the Speeches of several of the members, of this House, in contempt of the orders, and in breach of the privilege, of this House. He then moved, "That the paper, intituled, The Morning Chronicle, and London Advertiser, Monday, March 4, 1771, printed for William Woodfall, be delivered in at the table and read."

The minority opposed this with great earnestness: they wished the ministry to consider, that they had already attempted to punish two printers who had hitherto eluded their vigilance, and probably would in the end gain a victory over the House; that the honour and dignity of parliament should never be committed on so slight a ground as that of a general order; that the House ought to consider well before it took the first step, as on that depended the whole success; that the speeches printed, were no disgrace to the members for whom they were made, and as those members did not make any particular complaint of the injuries done them, the House in general had no reason to take it up; that many of the papers were disguised with blanks, disguised names, &c. which the House were not yet enabled to fill up; that the whole news-writers in every part of England, were liable to the same prosecutions, and their number was near 200; if all were prosecuted, what possible time could the House have to do any other business, than that of indulging the hon. gentleman's inclination for persecution; that he had something the appearance of the character of sir Gregory Gazette in the play, whose passion for newspapers made him exclaim, "What 100 newspapers in one day!" that this was attacking a hive of bees or an hydra, who would sprout 100 heads for one cut off. However, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Onslow - - - }	140
	{ Mr. Cooper - - - }	
NOES	{ Sir Joseph Mawbey - }	43
	{ Mr. Hussey - - - }	

So it was resolved in the affirmative. And the said paper was delivered in at the table accordingly; and several paragraphs therein were read.

Ordered, That the said William Woodfall do attend this House upon Thursday next.

Colonel Onslow then moved, That the paper, intituled, "The St. James's Chronicle, or British Evening Post, from Thursday, March 7, to Saturday, March 9, 1771," printed by Henry Baldwin, be delivered in at the table and read.

The House divided. The Yeas went forth.

Tellers.

YEAS	{ Sir Roger Newdigate - }	112
	{ Mr. Jolliffe - - - }	
NOES	{ Mr. Turner - - - }	37
	{ Mr. Byng - - - }	

So it was resolved in the affirmative. And the said paper was delivered in at the table accordingly; and several paragraphs therein were read; among others the following: "Jeremiah Weymouth, the d——n of the kingdom, spoke as follows:"

Colonel Barré, to shew the futility and ridiculousness of the proceeding, moved, "That Jeremiah Weymouth, the d——n of this kingdom, is not a member of this House." The ministry could not well say that he was, but that every person understood well who was meant by it, and therefore moved the previous question. On which, the House divided. The Noes went forth.

Tellers.

YEAS	{ Colonel Barré - - - }	38
	{ Captain Phipps - - - }	
NOES	{ Mr. Edmonstone - - }	120
	{ Colonel Onslow - - - }	

So it passed in the negative.

Then Mr. Onslow and colonel Barré, rising to speak, and Mr. Speaker having called upon Mr. Onslow, as being first in his eye; but it being insisted upon, that colonel Barré was first up, and therefore had a right to speak first; a motion was made, and the question being proposed, That Mr. Onslow not being first up do now speak;

And an Amendment being proposed by Mr. Dyson to be made to the said proposed question, by leaving out the words "not being first up" and inserting the words "to whom the Speaker has pointed, and whom the Speaker has declared to have been first in his eye;"

The House was moved, That the entry in the Journals of the House, of the 2d of May 1604, relating to sir Richard Leveson and sir Francis Hastings, might be read. And the same being read accordingly; a motion was made, and the ques-

tion being put, That the House do now adjourn. The House divided. The Noes went forth.

Tellers.

YEAS	{ Sir William Meredith - - - }	56
	{ Mr. Byng - - - }	
NOES	{ Major Egerton - - - }	114
	{ Mr. Cooper - - - }	

So it passed in the negative.

Then the said proposed question, together with the Amendment, was with leave of the House withdrawn.

The consequence of this motion, if carried, would have been, that, on all future occurrences of the like nature, the Speaker would have an uncontrouled power of throwing the debates into what hands he pleased, which would have been productive of the very worst consequences to the freedom of debate. Colonel Luttrell said, that, in his opinion, the Speaker had, and ought to have, such a power: he therefore should vote for no restrictions on him. By this time, the minority saw that no stop could be put to the career of the ministry, but by employing the order of the House in creating the delays; they therefore moved the following series of adjournments and amendments.

Mr. Colonel Onslow then moved, That the said Henry Baldwin do attend this House upon Thursday next: and a motion being made, That the House do now adjourn. The House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. Dempster - - - }	31
	{ Colonel Jennings - - - }	
NOES	{ Mr. Cocks - - - }	109
	{ Mr. Penton - - - }	

So it passed in the negative.

Then the main question being put, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Lord Burghersh - - - }	109
	{ Mr. Cooper - - - }	
NOES	{ Sir Cecil Wray - - - }	27
	{ Mr. William Burke - - - }	

So it was resolved in the affirmative.

Colonel Onslow moved, That the paper, intituled, "The London Packet, or New Evening Post," from Wednesday, February 27, to Friday, March 1, 1771, printed for T. Evans, be delivered in at the table and read; the House divided. The Yeas went forth.

Tellers.

YEAS	{ Sir Charles Whitworth - - - }	100
	{ Mr. Jenkinson - - - }	
NOES	{ Mr. Pulteney - - - }	22
	{ Mr. Barrow - - - }	

So it was resolved in the affirmative.

And the said paper was delivered in at the table accordingly; and several paragraphs therein were read.

A motion was made, and the question being put, That the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir Robert Clayton - - - }	24
	{ Sir Joseph Mawbey - - - }	
NOES	{ Lord Burghersh - - - }	90
	{ Captain Jenkinson - - - }	

So it passed in the negative.

Then a motion was made, and the question being proposed, That Thomas Evans do attend this House upon Thursday morning next: a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. Cholmley - - - }	22
	{ Mr. Coxe - - - }	
NOES	{ Mr. Charles Fox - - - }	89
	{ Mr. Fitzpatrick - - - }	

So it passed in the negative.

Then an Amendment was proposed to be made to the said proposed question, by leaving out the word 'next.' And the question being put, That the word 'next,' stand part of the said proposed question; the House divided. The Yeas went forth.

Tellers.

YEAS	{ Sir Sampson Gideon - - - }	87
	{ Mr. Ongley - - - }	
NOES	{ Col. St. Leger - - - }	18
	{ Mr. Walsh - - - }	

So it was resolved in the affirmative.

A motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir J. Pennyman - - - }	18
	{ Mr. Alderman Oliver - - - }	
NOES	{ Col. Fitzroy - - - }	84
	{ Mr. Hanmer - - - }	

So it passed in the negative.

Then another Amendment being proposed to be made to the said proposed question, by adding at the end thereof, the words "together with all his compositors, pressmen, correctors, blackers, and devils:" a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS { Mr. Whitworth - - - } 14
 { Mr. Mauger - - - }

NOES { Mr. Morton - - - } 79
 { Mr. Sloane - - - }

So it passed in the negative.

Then the question being put, that the words, "together with all his compositors, pressmen, correctors, blackers, and devils," be added to the said proposed question; the House divided. The Yeas went forth.

Tellers.

YEAS { Sir Robert Clayton - - } 7
 { Mr. W. Burke - - - }

NOES { Sir Brownlow Cust - - } 74
 { Col. Onslow - - - }

So it passed in the negative.

Then the previous question being proposed, that the said proposed question be now put: a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS { Col. Jennings - - - } 13
 { Sir W. Meredith - - - }

NOES { Mr. Conway - - - } 73
 { Mr. Croftes - - - }

So it passed in the negative.

Then the previous question being put, that the said proposed question be now put; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Cooper - - - } 77
 { Mr. Norton - - - }

NOES { Mr. Burke - - - } 12
 { Mr. Turner - - - }

So it was resolved in the affirmative.

Then the main question being put, that Thomas Evans do attend this House upon Thursday morning next; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Onslow - - - } 76
 { Mr. Gascoyne - - - }

[VOL. XVII.]

NOES { Alderman Townsend - } 12
 { Sir Cecil Wray - - - }

So it was resolved in the affirmative.

A motion was made, and the question being proposed, that the paper, intituled, "The Whitehall Evening Post, from Thursday, February 28, to Saturday, March 2, 1771," printed and sold by T. Wright, be delivered in at the table, and read; a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS { Sir R. Clayton - - - } 11
 { Sir J. Pennyman - - - }

NOES { Mr. Bradshaw - - - } 68
 { Mr. Stephens - - - }

So it passed in the negative.

Then the question being put, that the said paper be delivered in at the table, and read; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Sloane - - - } 66
 { Mr. Brickdale - - - }

NOES { Mr. Turner - - - } 10
 { Mr. Whitworth - - - }

So it was resolved in the affirmative.

And the said paper was delivered in at the table accordingly; and several paragraphs therein were read. And a motion being made, and the question being proposed, that Thomas Wright do attend this House upon Thursday morning next: and the previous question being put, that that question be now put; the House divided. The Noes went forth.

Tellers.

YEAS { Mr. Rice - - - } 71
 { Mr. Buller - - - }

NOES { Col. Jennings - - - } 10
 { Mr. Turner - - - }

So it was resolved in the affirmative.

Then the main question being put, that Thomas Wright do attend this House upon Thursday morning next; the House divided. The Yeas went forth.

Tellers.

YEAS { Lord Burghersh - - } 70
 { Mr. Cooper - - - }

NOES { Sir Cecil Wray - - - } 10
 { Mr. W. Burke - - - }

So it was resolved in the affirmative.

A motion was made, and the question being proposed, that the paper, intituled,

[G]

"The General Evening Post (London) from Thursday, March 7, to Saturday, March 9, 1771," sold by S. Bladon, be delivered in at the table, and read; a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Barrow - - - -	}	10
		Mr. Mauger - - - -	}	
NOES	{	Lord Burghersh - - -	}	69
		Mr. Dillon - - - -	}	

So it passed in the negative.

Then the said paper was delivered in at the table, and several paragraphs therein were read.

A motion was made, and the question being put, that Samuel Bladon do attend this House upon Thursday next; the House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Fitzpatrick - - -	}	71
		Mr. Bradshaw - - - -	}	
NOES	{	Sir J. Pennyman - - -	}	10
		Mr. W. Burke - - - -	}	

So it was resolved in the affirmative.

And the paper, intituled, "The London Evening Post, from Thursday, March 7, to Saturday, March 9, 1771," printed for J. Miller, was delivered in at the table; and several paragraphs therein were read.

A motion was made, and the question being put, that John Miller do attend this House upon Thursday morning next; the House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Fox - - - - -	}	72
		Mr. Hanmer - - - -	}	
NOES	{	Sir Cecil Wray - - - -	}	10
		Mr. W. Burke - - - -	}	

So it was resolved in the affirmative.

The House divided 23 times, and did not adjourn till four in the morning.

March 14. The order of the day being read for the attendance of William Woodfall, a motion was made that the said order be discharged.

It was urged, that this day was fixed for the East-India business, an affair of the utmost consequence; that the House was prepared with numbers ready to attend that affair; that the session grew short; and, if we were perpetually to be amused with the ridiculous prejudices of particular men against these poor printers, no busi-

ness of consequence could be got through with; that the measure was ridiculous in the highest degree. The House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Ald. Townshend -	}	24
		Sir Robert Clayton -	}	
NOES	{	Sir Alexander Gilmour -	}	117
		Mr. Hervey - - - - -	}	

So it passed in the negative.

And the House being informed, that the said William Woodfall did not attend; the messenger, to whom the order of Tuesday last was delivered, being called upon, to give an account of the service thereof, acquainted the House, that he went to the house of the said W. Woodfall; and being informed, that he was then in custody of the Black Rod attending the House of Peers, he left a copy of the order with the wife of the said W. Woodfall; and that he (the messenger) has since heard, that the said W. Woodfall is now in custody at the House of Lords.

Then the order of the day for the attendance of Henry Baldwin being read; a motion was made, That he be now called in to the bar: and the previous question being put, That that question be now put; The House divided. The Noes went forth.

Tellers.

YEAS	{	Sir Henry Hoghton -	}	113
		Sir Alexander Gilmour -	}	
NOES	{	Mr. Baker - - - - -	}	28
		Mr. William Burke - -	}	

So it was resolved in the affirmative.

Then the said Henry Baldwin was called in; and the complaint was read to him.

And he having said, that he was not guilty of the said charge; several witnesses were examined, in support of the charge.

The evidence against him consisted of a person employed by the Treasury, to purchase every morning and evening a certain number of newspapers of the publishers, that he may be able to be an evidence against them, and for which service he had 2s. 6d. a week. The other was one Harris, of the Stamp office, who proved the identity. On this evidence alone he was found guilty by the House, when, in reality, nothing was proved against him, but the fact of publishing. The minority apprehended he ought to have been acquitted. 1st, Because no evidence appeared to prove the publication of the debates. 2dly, Because misrepresenting the

speeches of the members is not a crime against the general resolution. 3dly, Because on his trial no specific charge was made against him; the blanks were not filled up; the innuendos explained. On the contrary, when the House was moved the day before, "That Jeremiah Weymouth, esq. the d——n of this country, is not a member of the House;" (which, if denied would have been a specific charge) it was not agreed to by the House. 4thly, That this kind of evidence would not have condemned the man in any other court of justice in any part of the world.

Mr. Baldwin was then heard in his defence. After which it was moved "That the said Henry Baldwin, in having printed in a news-paper, the debates, and misrepresented the speeches of several of the members of this House, is guilty of a breach of the privilege of this House." The House divided. The Yeas went forth.

Tellers.

YEAS { Lord Burghersh - - } 92
 { Sir Sampson Gideon - - }

NOES { Mr. Turner - - - } 20
 { Mr. Bayly - - - }

So it was resolved in the affirmative.

Then the said Henry Baldwin was again called in; and Mr. Speaker acquainted him with the said resolution. And he confessed, he was sorry for the trouble he had given the House; and that if it was the opinion of the House, that he should discontinue printing the debates of the House he would certainly obey their directions, though it would be attended with the ruin of his paper.

Mr. Onslow then moved, "That the said Henry Baldwin be now brought to the bar of this House; and, upon his knees, reprimanded by Mr. Speaker, for his said offence;" an amendment was proposed to be made thereto, by leaving out the words "upon his knees, reprimanded by Mr. Speaker, for his said offence," and to insert, "be discharged," instead thereof. And the question being put, That the words proposed to be left out, stand part of the question: the House divided. The Yeas went forth.

Tellers.

YEAS { Sir Henry Hoghton - - } 86
 { Mr. Dillon - - - }

NOES { Mr. Ald. Sawbridge - - } 16
 { Colonel Jennings - - }

So it was resolved in the affirmative.

Then the main question being put, the House divided. The Yeas went forth.

Tellers.

YEAS { Lord Gage - - - } 86
 { Mr. Ald. Harley - - }

NOES { Sir Cecil Wray - - } 12
 { Mr. Cholmley - - }

So it was resolved in the affirmative. And he was brought in accordingly; and, upon his knees, reprimanded by Mr. Speaker; and was ordered to be discharged, paying his fees.

Then the order of the day being read, for the attendance of Thomas Evans; A motion was made, and the question being put, That the House do now adjourn; The House divided. The Noes went forth.

Tellers.

YEAS { Mr. Ald. Oliver - - } 10
 { Colonel Jennings - - }

NOES { Sir Charles Whitworth } 79
 { Mr. Cooper - - - }

So it passed in the negative.

And the House being informed, that the said Thomas Evans did not now attend; the messenger, to whom the order of Tuesday last was delivered, being called upon, to give an account of the service thereof, acquainted the House, that he served the said order on the said Thomas Evans, personally, yesterday at six of the clock in the evening; and that the said Thomas Evans had attended this day accordingly.

And the House being informed, that some particular circumstances had obliged him to withdraw himself from his attendance on this House. A member in his place, acquainted the House, that he had heard in the lobby, that the wife of the said Thomas Evans had broke her leg.

Ordered, That the said Thomas Evans do attend this House upon Tuesday next.*

* On the 19th, Mr. Evans addressed the following Letter to the Speaker:

To the Right Hon. Sir Fletcher Norton,
 Knight, Speaker of the House of Commons.

"Sir; Having received an order of the House of Commons to attend them on Thursday last, and imagining that every other printer, that was desired, would obey the summons, I actually did attend within call till Friday morning, when I took the liberty of returning home, believing this act entirely justifiable, as the order only required my attendance in the morning, and I had to that time made an addition of twelve hours.

Then the order of the day being read, for the attendance of Thomas Wright; a motion was made, and the question being put, that the House do now adjourn; the House divided. The Noes went forth.

Tellers.

YEAS	{	Sir Cecil Wray - -	}	8
		Mr. Dempster - -		
NOES	{	Mr. Cust - - - -	}	75
		Captain Jenkinson -		

So it passed in the negative.

A motion was made, and the question being put, That the said Thomas Wright be discharged: it passed in the negative.

Then Thomas Wright was called in; and the complaint being read to him; he confessed, that he is the printer of the said paper; that he was sorry he had incurred the displeasure of the House; that he printed the debates therein at the instance of several applications from his customers in the country; and that he was under apprehensions, that, if he had not printed the said debates, his paper would have been ruined; but that he submitted himself to the House.

"This day my presence is required by an order grounded on my non-attendance on Thursday, although it was declared in the House that I did attend, but was not called till Friday; a time, at which I was not surely obliged by law to answer.

"On the former occasion, I had my doubts concerning the legality of the order, with which I was served. Understanding that the House intended to punish me, for what I deemed a merit rather than a crime, I reflected that the House of Commons was never reckoned a court of justice; and that, if I must be tried, I must be tried by my equals—by a jury of unbiassed men—and not by gentlemen, who, though a party, think proper to assume the office of judge and jury. I observed that the king had no power to chastise any man who might have given him offence, but is forced to have recourse to the law of the land, and to abide by the verdict of twelve jurors legally chosen; and I could not conceive why an inferior should be indulged with greater power than a superior branch of the legislature. Nor could I persuade myself that either ought to be entrusted with an unlimited and discretionary power—such an idea being inconsistent with all law and good government. I understood that his majesty's British subjects were amenable only to known and established laws, and not to the occult law of parliament, which its very name shows to be binding only on itself and its members, and not on the people, who are to be judged by the law of the land. It occurred to me that the House of Com-

Resolved, That the said Thomas Wright, in having printed the debates, and misrepresented the speeches of several of the members of this House, is guilty of a breach of the privilege of this House.

A motion was made, That the said Thomas Wright be now brought to the bar; and, upon his knees, reprimanded by Mr. Speaker, for his said offence; the House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Norton - - -	}	75
		Mr. Gilbert - - -		
NOES	{	Sir Robert Clayton -	}	8
		Mr. Whitworth - -		

So it was resolved in the affirmative. And he was brought in accordingly; and, upon his knees, reprimanded by Mr. Speaker; and was ordered to be discharged, paying his fees.

Then the order of the day, for the attendance of Samuel Bladon, being read; he was called in. And the complaint being read to him; he confessed, that he sold the said paper; and that his reason for printing the speeches therein com-

mons was intended for making, and not for expounding, the law; and that in all well-regulated societies, the legislative and judicial powers were to be kept distinct: because otherwise there would be no occasion for enacted laws, as the maker would have it in his power to unmake, alter, suspend, and interpret them at his pleasure, like an eastern monarch. I knew the uneasiness, which a similar proceeding of the King's-bench, in the case of Bingley, had produced in the nation. I knew the jealousy conceived against the House of Lords for the exertion of a like authority. These, and many other circumstances of the same nature, crowded into my mind, and made me suspect the legality of the whole process. Yet still I would not be the first to resist the orders of the House of Commons, to which the utmost reverence is due, whilst it continues a true representative of the people. I now find that the same doctrines are embraced by lawyers, and magistrates, and by the people. I should therefore be justly chargeable not only with pusillanimity, but with betraying the constitution, were I not to concur in bringing this matter into a course of legal decision. For this reason, I hope, that the House will excuse my attendance till the point is determined, and till it is universally known whether a British subject has, or has not, a right to be tried by a jury. If it shall be found that he has not, and that I ought to have obeyed your orders, I will submit to the laws of my country, and to the House.

T. EVANS."

"Paternoster-row, March 19."

plained of, was, that he should have lost the sale thereof; and that the paper would have been ruined; that care had always been taken that this paper should give no offence to this House; and that he now came to the bar with a fixed resolution of acknowledging his offence.

This confession operated so favourably with the ministerial part of the House, that they moved, "That the said Samuel Bladon be discharged from any further attendance on this House." Upon which the minority moved an amendment, thereto, by inserting after "Samuel Bladon" the words "having declared to the House, that he came here with a fixed resolution to confess and having confessed." By which they meant to shew the partiality of the House, in acquitting a man who had confessed himself guilty. And the question being put, That those words be there inserted; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Dempster - - - } 8
 { Mr. William Burke - - - }

NOES { Lord Fred. Campbell - - - } 70
 { Mr. Dillon - - - - - }

So it passed in the negative.

A motion being made, That the House do now adjourn. The House divided. The Noes went forth.

Tellers.

YEAS { Alderman Townshend } 7
 { Mr. Turner - - - - }

NOES { Sir Edward Blackett - - - } 70
 { Mr. Cocks - - - - - }

So it passed in the negative.

Then the main question being put, That the said Samuel Bladon be discharged from any further attendance on this House: and the said Samuel Bladon having made such a frank and open declaration of his sense of his offence: Ordered, *nem. con.* That the said Samuel Bladon be discharged from any further attendance on this House.

Then the order of the day, for the attendance of John Miller, being read: and the said John Miller not attending; the messenger, to whom the order of Tuesday last was delivered, being called upon to give an account of the service thereof, acquainted the House, that he went to the house of the said John Miller, yesterday evening; that he was told, he was gone into the country; that he (the messenger) left a copy of the said order at his house; and that,

on calling again this morning; he saw the said John Miller, who told him, that he had received the said order.

Then Mr. Onslow moved, "That the said John Miller be, for his contempt, in not obeying the order of the House, for his attendance on this House this day, taken into the custody of the Serjeant at Arms, or his deputy, attending this House:" Upon which a motion was made, and the question being put, That the House do now adjourn: the House divided. The Noes went forth.

Tellers.

YEAS { Sir Robert Clayton - - } 8
 { Mr. Alderman Oliver - - }

NOES { Lord Garlies - - - - } 63
 { Mr. Ewer - - - - - }

So it passed in the negative.

Then an amendment was proposed by sir Cecil Wray to be made to the said proposed question, by adding at the end thereof the words "it being half an hour after three of the clock on Friday morning." And the question being put, That those words be there added; it passed in the negative.

Then the main question being put, That the said John Miller be, for his contempt, in not obeying the order of the House, for his attendance on this House this day, taken into the custody of the Serjeant at Arms, or his deputy, attending this House; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Fox - - - - - } 63
 { Mr. Amcotts - - - - }

NOES { Mr. Dempster - - - - } 8
 { Alderman Townsend }

So it was resolved in the affirmative.

March 15. Mr. Wheble,* the printer,

* Previous to his apprehension Mr. Wheble sent the following Letter, with the annexed Case and Opinion, to sir Fletcher Norton, the Speaker of the House of Commons.

To the Right Hon. Sir Fletcher Norton, Knt.
 Speaker of the House of Commons.

"Sir; on my return last Monday night from the country, whither my business had carried me, I was much astonished to be informed, that some persons, pretending to be the deputy serjeant and messengers of the House of Commons, had called several times at my house in my absence, declaring their intention to take me into custody by virtue of a pretended warrant from you; and that a writing had ap-

was brought before alderman Wilkes at Guildhall, by Edward Twine Carpenter, a printer, being apprehended by him in consequence of a proclamation in the London Gazette of Saturday the 9th of March instant; but the said Carpenter, not having any other reason for apprehending

peared in the Gazette, under the form of a pretended proclamation by his majesty's authority, to order all his majesty's loving subjects to apprehend John Wheble; and to forbid all persons to conceal him at their peril. In consequence of this information, being better versed in printing than in law, I thought it proper to take the advice of counsel learned in the law upon my case; being desirous to yield an entire submission to the laws of my country, and knowing no reason why I should conceal myself, or why I should be apprehended, having never been guilty of any breach of those laws. Inclosed I have sent you a copy of my counsel's opinion, which I humbly desire you to lay before the House, and to inform the honourable House, that I am determined to yield no obedience, but to the laws of the land, and shall therefore abide by my learned counsel's opinion. I am, in all lawful commands, your honour's humble servant,

J. WHEBLE."

" Paternoster-row, March 14, 1771."

" CASE for Mr. Morris's Opinion.

" " Jovis, 21 die Februarij, 1771.

" " Ordered, That J. Wheble do attend this House upon Tuesday morning next.

" " Ordered, That the service of the said order, by leaving a copy of the same at the usual place of abode of the said J. Wheble, be deemed equal to personal service, and be good service.

" (Copy) J. HATSELL, Cl. Dom. Com."

" The above writing, which is by some supposed to be a copy of an order, or pretended order, of the House of Commons, was left, upon Friday, February 22, 1771, at the house of Mr. John Wheble, within the city of London, being put into the hands of one of his servants by a person who stiled himself messenger to the House of Commons.

" Upon Thursday, Feb. 23, a person called at Mr. Wheble's house, and shewed a paper writing, which he pretended to be some warrant or authority from the Speaker of the House of Commons, directing him to take John Wheble into custody, for his contempt in not obeying the orders of the House, for his attendance on that House.

" Upon Saturday, March 9, a paper, in the form of a royal proclamation, appeared in the Gazette, intituled, " By the king, a proclamation for apprehending John Wheble and R. Thompson."

" Mr. Wheble did not appear to the above summons, neither has he been apprehended upon the pretended warrant of the Speaker, or the pretended proclamation.

Mr. Wheble than what appeared in that proclamation, Mr. Wheble was discharged; and then the said Mr. Wheble charged Carpenter for assaulting and unlawfully imprisoning him; and on his making oath of the offence, and entering into a recognizance to prosecute Carpenter at the next

" QUESTIONS.

" 1. Suppose the paper-writing first above-mentioned to be a copy of a genuine order of the House of Commons, is John Wheble, at whose house the same was left, by law requirable to attend agreeable to the tenor thereof?

" 2. If John Wheble is so requirable to attend by law, he having neglected so to do, what penalties is he liable to, and by what means would it have been legal to proceed against him?

" 3. If the pretended warrant of the Speaker is authentic, was John Wheble obliged to pay obedience thereto, by surrendering himself a prisoner to the person who carried with him the same, and called himself a messenger of the House?

" 4. Taking the paper which appeared in the Gazette really to be the king's proclamation, is the same a legal process, and a sufficient warrant to such as may venture to act under it?

" Upon the whole, Mr. Morris is desired to give his opinion on the above stated case to Mr. Wheble, and as counsel to advise what conduct he ought by law to observe upon this occasion.

" OPINION.

" I have attentively perused the above written case, and though from the bad designs which appear to be formed against the liberties of the people, there may be danger in giving opinion, which some of my profession would chuse to avoid, I shall, as it becomes an honest and firm man, proceed to give Mr. Wheble my counsel, without attention to any other object than the laws and constitution of this free country.

" ANSWERS.

" To the first question, I am most clearly and decisively of opinion, that Mr. Wheble is not compellable by law to attend the House of Commons in pursuance of the written order above stated. If the grounds upon which the order of attendance was issued by the House of Commons had been made part of the present case, I would then give my opinion, whether that assembly had any authority at all, or in what cases to compel an attendance upon them; but as they are not, I must take up the matter upon the summons alone. It is now therefore of no consequence what was the cause that required attendance; because I, as counsel, can take as little notice of it upon the case before me, as Mr. Wheble could upon a sight of the summons, beyond which he had no need to look. The order itself is worded in so injudicial and unclerk-like a manner, that it is covered with objections almost from the first

sessions in London, Carpenter was ordered to find sureties to answer for this offence, which he did, himself being bound in 40*l.* and his two sureties in 20*l.* each, and was thereupon discharged. Carpenter requested a certificate of his having ap-

letter to the last. 1. I know not that an Englishman is required to understand Latin, especially since the act of parliament, that all process of the law shall be in English, and in no other language whatsoever; amongst other process orders being particularly enumerated, if this order be not a process of law it can have no effect; and if it is, it ought to be in English; whereas the order in question contains words in a strange language, without having the exemption of being technical Latin words. 2. J. Wheble is a description of nobody, it might as well have been written eye Wheble, or nose Wheble, either of them would be as much the name of John Wheble as the former. Besides, a person is not legally named without a proper addition of quality and abode, which is not so much as attempted at in this pretended order. 3. The place of attendance is not sufficiently expressed; 'this House' is more properly the house of John Wheble where the order was left, than any other house, for there is no date of place to the order; Mr. Wheble therefore best attended this order by staying at home. 4. The date of time being expressed in a foreign tongue, which an Englishman need not understand or attend to, the day of attendance became consequently uncertain; 'Tuesday morning next' having no day which it is next to follow. 5. Another objection lies to this part of the order, that the morning of a day is too indefinite to fix an attendance; the law requiring that an hour as well as a day should be specified in every order of attendance. 6. If the House of Commons had power to issue this summons, it ought to be signed by the Speaker, and not by a person using certain cabalistical expressions, which may possibly be construed to mean Clerk of the House of Commons. The Speaker ought also to recite that he had an express authority given him by the House before he presumes to issue any summons or warrant whatsoever. It is the office of the Speaker, and not of the Clerk, to authenticate the acts of the House. 7. But the greatest of objections to the order lies in the want of expressing the cause upon which the attendance is required. It cannot be pretended, by any person, that the House of Commons have an arbitrary right to require the attendance of man, woman, or child, at their pleasure, without having any parliamentary cause whatsoever for such an attendance. There may be such a thing as a summons (issued by the Commons) illegal, for want of jurisdiction; therefore the cause of attendance should be expressed; that the party upon whom it was served, or others, where it concerned them, might judge whether the cause of attendance

prehended Wheble, which was given to him.

Immediately after this Mr. Wilkes wrote the following letter to the earl of Halifax, one of his Majesty's principal secretaries of state.

was legal and sufficient for the summons. That cause not being expressed, it must be taken to be illegal and insufficient; from the maxim of the law, 'that the same rule holds 'with respect to those matters which do not appear, as to those which do not exist.' In fact, upon the face of the order it appears to be illegal, and what Mr. Wheble neither needed or ought to have obeyed.

"2d Q. The first question being answered in the negative, the second requires no consideration; but if the attendance was legally requirable, pursuant to the above order, it would not be difficult to shew what penalties the refusing party would be liable to upon resort to the legal courts of justice, which have cognizances of such offences.

"3d Q. If the summons be invalid, the subsequent warrant by the Speaker must necessarily be invalid also; for the defects of the summons were not cured by any appearance of Mr. Wheble. A form of a warrant no more makes a legal authority (for so much the word imports) than a constable's staff makes a peace officer. If the warrant were legal, a messenger of the House is not a proper person for executing it; but only the serjeant at arms, and the deputy-serjeant. But these are trifles with respect to the question; for the answer is most plain and positive, that the Speaker of the House of Commons is no more a magistrate appointed to issue warrants of apprehension than the House itself is a court of justice appointed to punish. Neither one or the other have those powers; and when they usurp them, the people have a right to treat them as invaders of their liberties: particularly the immediate object of the tyranny has authority, by the law of this country, and by the law of God, to defend his liberty and person by force and arms against such illegal attempts, though he should be obliged to sacrifice, in the protection of himself from the violence, all the serjeants, all the messengers, and even the Speaker himself of the House of Commons.—I must add, that a warrant of apprehension, grounded upon a supposed contempt, always carries with it an argument against its own legality. No contempts of the House of Commons are punishable by themselves; they can only restrain instant and open contempts committed by the party in the face of the House. A warrant to apprehend shows that the party does not, in the presence of the House, disturb its debates or obstruct its authority; such being the only legal idea of a contempt.

"4th Q. This question admits of no hesitation or dispute. The pretended proclamation of the king is clearly illegal. Proclamations

"Guildhall of London, March 15, 1771.

"My Lord,

"I had the honour of officiating this day as the sitting justice of Guildhall. John Wheble, the publisher of the *Middlesex Journal*, a freeman of London, was apprehended and brought before me by Edward Twine Carpenter, who appears to be neither a constable, nor peace officer of this city. I demanded of what crime Wheble was accused, and if oath had been made of his having committed any felony or breach of the peace, or if he lay under a suspicion strong enough to justify his apprehension or detention. Carpenter answered, that he did not accuse Wheble of any crime, but had apprehended him merely in consequence of his Majesty's proclamation, for which he claimed the reward of 50*l*. As I found that there was no legal cause of complaint against Wheble, I thought it clearly my duty to adjudge, that he had been apprehended in the city illegally, in direct violation of the rights of an Englishman, and of the chartered privileges of a citizen of this metropolis, and to discharge him. He then made a formal complaint of the assault upon him by Carpenter; I therefore bound him over to prosecute in a recognizance of forty pounds, and Carpenter to appear and answer the complaint at the next quarter sessions of the peace for this city, in a recognizance of forty pounds himself,

have no intrinsic force in this country; nor have they any at all but by special act of parliament. They may serve at other times to intimate to the people the necessity and inclination of the prince to put particular laws in execution. If they introduce a new law, they are truly inefficacious. The constitution of this country has not trusted to the king, with whom so much power is placed, the authority of apprehending or committing any subjects of the realm. That authority is left alone to the magistrates, and to the courts of justice. But had the proclamation in other respects been a legal warrant for apprehending John Wheble, many objections would still lie to the form and contents of it. If any person apprehends Mr. Wheble, in pursuance of this proclamation, he ought to be prosecuted by action or indictment; and any magistrate, before whom Mr. Wheble is brought, ought, if he does his duty, to set him at large, and commit the assailant upon his person (whether he be a king's herald or a speaker's messenger) unless he can give good bail for his appearance. Persons are liable to no penalty for concealing or not discovering Mr. Wheble, as is falsely insinuated in the proclamation. Neither the officers of

with two sureties in recognizances of twenty pounds each. I am, my lord, &c.

"(Signed) JOHN WILKES."

The same day, about seven o'clock, Mr. R. Thompson was apprehended at his own door, in Newgate-street, and carried before Mr. Alderman Oliver, at the Mansion-house, as being the person described in his Majesty's proclamation; but not being accused of having committed any crime, he was discharged and set at liberty. The man who had apprehended him then desired a certificate of his having acted in pursuance of the proclamation, in order to obtain the reward of 50*l*., which was immediately granted him.

March 16. J. Miller, printer of the *London Evening Post*, was, between the hours of two and three in the afternoon, assaulted and made a prisoner in his own house, by William Whittam, a messenger of the House of Commons. He sent directly for a constable, to whom he gave the messenger in charge, and the messenger did the same by him. They proceeded together, and with several other persons who were witnesses of the transaction, to Guildhall: but the sitting justice, Mr. Alderman Wilkes, having dispatched the business of the day, and signed the rota book, was gone to the Mansion-house. They went immediately there, and made application to the lord mayor, who was in his bed-chamber ill of

the customs or others have a right to examine persons passing beyond the seas. This proclamation has not the force of a *Ne exeat regno*. All the loving subjects of his majesty, as they tender the safety of the king's person, and his right to the crown, both which are secured by the laws, ought, instead of obeying this proclamation, to be assistant in opposing its execution. As individuals have a right to protect their own liberty, so have others a right to interpose in their behalf.

"Upon the whole, I do advise Mr. Wheble to pay no attention or obedience either to the abovementioned summons, warrant of apprehension, or proclamation. All are equally unjust and illegal. Mr. Wheble will be protected in his resistance by *Magna Charta*, and by numerous statutes which confirm our invaluable code of liberties. The proclamation moreover seems to me to levy a cruel war upon two individuals without colour of law; and I do give it as my opinion, that Mr. Wheble may well institute an action upon the case, against the counsellors, promoters, aiders, abettors, and publishers thereof. R. MORRIS."

"Lincoln's-Inn, March 14, 1771."

the gout. The messenger desired that he might have leave to send to John Clementson, esq. deputy serjeant at arms, which was granted; and the lord mayor adjourned the hearing of the business till six in the evening. At that hour the lord mayor, and the aldermen Wilkes and Oliver, heard the cause in his lordship's bed-chamber, Mr. Clementson being present, as well as the messenger, the printer, Robert Morris, esq. as his counsel, and many other persons. Mr. Clementson said, he came from the Speaker of the House of Commons, to demand both the messenger and Mr. Miller, the printer; which demand was refused by the lord mayor, and the refusal minuted down by the serjeant in a book. The lord mayor demanded of the messenger, what his accusation was against Miller, and by what right he had apprehended one of his citizens; and if he was a peace-officer in the city. The messenger declared, that he did not accuse Miller of any thing criminal, but had taken him into custody by virtue of an order of the House of Commons. The lord mayor demanded to see the order, which, after much altercation, was given in by Mr. Clementson. Mr. Morris then argued the whole cause very ably, and insisted particularly on the invalidity of such a warrant. Mr. Clementson desired to confine himself to its being signed by sir Fletcher Norton, Speaker of the House of Commons, and to the two demands he then made, of the messenger and Mr. Miller being delivered to him. The lord mayor then, and the aldermen Wilkes and Oliver, discharged Mr. Miller from the custody of the messenger. They proceeded next to the complaint of the publisher for the assault and false imprisonment, which was clearly proved by the evidence of John Topping, and Robert and Henry Page. The messenger called no witness, and Mr. Clementson admitted the facts. The lord mayor then asked the messenger for bail to answer the complaint; but he said he had none; and Mr. Clementson declared, that the messenger should not give bail. On this refusal the lord mayor and the two aldermen signed the Mittimus of the messenger of the House of Commons to the Compter. As soon as this was done, Mr. Clementson said, "I waited for this: and now I see the warrant of commitment actually signed, I will offer bail;" upon which the messenger was bound over for his appearance in a

[VOL. XVII.]

recognizance of 40*l.* with two sureties in 20*l.* each, and the printer in a recognizance of 40*l.* to prosecute for the assault and false imprisonment. Almost every man in the room offered to be bail for the messenger. The Mansion-house was exceedingly full of people, but not the least confusion or disturbance happened.

March 18. Mr. Speaker acquainted the House, that he having, in pursuance of the order of the House of Thursday last, issued his warrant to the Serjeant at Arms, or his deputy, attending this House, to take into custody J. Miller; the messenger, to whom the said warrant was delivered, had, by virtue thereof, arrested the said J. Miller on Friday last; and that thereupon the said messenger having been charged in custody of a constable by the said J. Miller, as having committed an assault on the person of the said J. Miller, the said messenger was carried before the lord mayor of the city of London, by the said constable; when the deputy Serjeant at Arms attending this House acquainted the said lord mayor, that the said arrest of the said J. Miller was made by the said messenger under a warrant signed by the Speaker of the House of Commons, which warrant was there produced, and shewn to the said lord mayor; and demanded of the said lord mayor, that the said messenger should be discharged, and the said J. Miller delivered up to the custody of the said messenger; and that the said lord mayor, after such information and demand as aforesaid, having heard the several parties so brought before him, and seen the warrant signed by the Speaker for the apprehension of the said J. Miller, declared it to be his opinion, that the said warrant was illegal, and that the said J. Miller ought to be discharged, and ordered him to be discharged accordingly; and that a warrant of commitment was also signed by the said lord mayor and two aldermen of the city of London, to commit the said messenger for the assault pretended to be made on the said J. Miller; and that the said messenger had given security for his appearance to answer the said charge at the next general quarter sessions of the peace to be held for the city of London.

The Deputy Serjeant at Arms was called in. The following is the substance of his examination.

It appeared that on the 15th of March, 1771, the deputy-serjeant of the House of

[H]



Commons went to the Mansion-house, and was introduced to the lord-mayor in his bed-chamber: he told him he understood that a messenger of the House of Commons, to whom a warrant for apprehending one Miller, a printer, was directed, was taken up by a constable, and charged with an assault: he therefore desired to know, if the messenger had been brought before him. The lord mayor said, he had been told that a person, who was called a messenger of the House of Commons, had been brought there, and charged with an assault, but that he had put it off till six o'clock. The deputy serjeant waited in an ante-room till six o'clock. The messenger came, and Miller, and a constable (John Downe), and a large concourse of people: then they went into my lord mayor (alderman Wilkes and alderman Oliver were there with him.) The lord mayor asked what was the purpose of their coming thither; Miller said he charged Whitham, the messenger, with an assault: on this, Mr. Robert Morris appeared, and said he was counsel for Miller, the prosecutor; he said, that Miller had been violently assaulted, and falsely imprisoned, by an illegal warrant. Downe, the constable, (who was asked for by the lord mayor) said, Miller had applied to him about one or two o'clock, and had complained of an assault committed on him in his own house, by the messenger, and charged him to take the messenger into custody; he therefore took him into custody, in order to carry him before a proper magistrate.

Miller was then called upon, who said, that a person, who called himself a messenger of the House of Commons, came to him, and took him into custody, by virtue of a pretended warrant. Miller was then sworn by the lord mayor, and said upon his oath, that what he had before said was true: he went on, and said he had refused to go with the person; that the person had used violence, and had seized hold of him, and was pulling him along. The lord mayor asked the messenger what offence Miller had committed, or what authority he had for assaulting Miller in this manner: the messenger said, he had the Speaker's warrant directed to him to take Miller into custody. The lord mayor asked where the warrant was; the deputy serjeant told Whitham to open it and read it himself. The lord mayor, or Mr. Morris (the deputy could not tell which), said, that it must be produced; the deputy objected to it for some time; but the lord

mayor saying it could not be taken notice of, if not produced, the deputy serjeant delivered it to the lord mayor, on his promising to deliver it back to him again. The deputy waited till that time to see the nature of the assault charged on Whitham; and finding that it was for executing the warrant for taking Miller into custody, he then told the lord mayor, that he appeared before him as deputy serjeant at arms of the House of Commons; that he came there by the Speaker's directions, and that he had his commands to demand not only Whitham the messenger, but likewise Miller, his prisoner, and that he made that demand in the most solemn manner he was able. Mr. Morris, on this, desired that the deputy might be sworn as an evidence: he declared that he would not be sworn, and said, he did not come as an evidence, but as an officer of the House of Commons, to execute the commands given him by the Speaker. The lord mayor said, he could not take notice of any thing in his magisterial capacity that was not given upon oath. The deputy was then asked by Mr. Morris, if he refused to be examined to any of the facts or circumstances within his knowledge: the deputy doubted at first what answer to give to that; but on recollection he said, if there was the least doubt either of the warrant being signed by the Speaker, or of his having the Speaker's commands to demand Whitham the messenger, and Miller his prisoner, he was ready to be sworn to the truth of those matters, but that he would not be sworn generally. Finding that to be his resolution, Mr. Morris declined swearing him as to those matters; but the deputy again repeated, that if there was any doubt as to those matters, he was ready to swear to them.

The lord mayor asked Whitham, if he was a peace-officer, or a constable? He said, he was not; and further, if he had applied to any city magistrate to back his warrant? He said, he had not. Upon this, the lord mayor declared, that it was very extraordinary for any citizen to be taken up in the city of London, without the knowledge or authority of the lord mayor, or some other magistrate of the city; and that if this was permitted to be the case, it would be trampling on the laws, and there would be an end of the rights of this city.

Then Miller was examined as to his being a liveryman of the city of London. The lord mayor said, it was his opinion,

that no warrant but from him, or some other magistrate of the city, was good and valid to take up any citizen; that he thought himself bound, so long as he held the great office of chief magistrate of the city of London, to take notice of a proceeding of this sort; and that it was his duty to defend the citizens of London, and their rights and liberties, to the last extremity. He said, he was of opinion, the messenger had no right to take up Miller, who was a citizen, not being charged with any felony, trespass, or breach of the peace.

Mr. Morris then made four objections to the warrant. 1st, That the words (House of Commons) was not a sufficient description of the power which had passed the vote.—That it should have been the House of Commons in parliament assembled. 2dly, That J. Miller was no sufficient description of the person. 3dly, That the offence was not inserted; and therefore that it was illegal, and without colour of law. 4thly, That it did not appear that Fl^r. Norton, Speaker, who signed the warrant, was the sir Fletcher Norton who was Speaker of the House of Commons.

The lord mayor then asked Whitham, if he intended to carry Miller away as his prisoner? Whitham said, he did.

The lord mayor then said, he thought the warrant was illegal; and therefore he discharged Miller out of the custody of the messenger; and said at the same time, This citizen comes here to claim a citizen's protection of me, and I think he is entitled to it.

Then the lord mayor proceeded on the assault.—Miller proved, that Whitham had laid hold of his arm, and pulled him; and that in about five minutes afterwards the constable came.—After this three persons were produced to prove the assault. These persons were, Henry Page, of Newgate-steet, printer; John Topping, of the Old Bailey, printer; Robert Page, of Newgate-street, printer. They proved that Whitham laid hold of Miller's arm, and said, he was his prisoner; and that Miller said he should not go, or did not choose to go.—That Whitham said, you must go, and Miller said he should not; and then Whitham charged every body present to assist him. After this the constable was brought, and the constable charged all present to assist him.

The lord mayor on this gave it as his opinion, That the assault was fully proved,

and that Whitham must give security to appear at the next session for the city of London, to answer such indictments as should be then found against him, for the assault and false imprisonment; himself in forty, and two sureties in twenty pounds each; and Miller was to be bound to appear, and make out the charge.—Mr. Morris, and many others present, were ready to be bail for Whitham—Whitham was very much frightened, and was ready to offer bail: but the deputy serjeant insisted he should not give bail. The lord mayor desired it might be noticed, that bail was offered, but not accepted by Whitham.

Then the lord mayor directed a warrant to be made out for committing Whitham to the Compter. On this Mr. Morris desired, that the other two aldermen might sign the warrant, as well as his lordship; else it might be supposed that they did not concur in opinion with his lordship. The lord mayor said, he did not desire any body else to sign it; though the two aldermen declared themselves ready to do it. The warrant, however, was directed to be altered, by the clerk, into the plural number, and was signed by aldermen Wilkes and Oliver. He (the deputy) then asked the lord mayor, if it was signed by them all? The lord mayor said it was; and directions were given by him and Mr. Wilkes, to the constable, that he might be used kindly in prison. Just before they were going to take him away, the deputy said, he thought that this being a commitment he had gone far enough; and then he offered bail. The lord mayor grew warm at this, and said, he found that this proceeding was meant to exaggerate the offence. After this was done, the deputy went back immediately to the Speaker, and told him all that had happened.

Mr. *Welbore Ellis* said, that as, in this affair, the name of one of the members (the Lord Mayor) had been mentioned, it would be necessary to have him present when the affair was examined, and therefore moved, "That Brass Crosby, esq. lord mayor of the city of London, a member of this House, do attend this House in his place to-morrow morning."

This was opposed by several members, and an amendment proposed, that the debate be adjourned till Friday, as the lord mayor was very ill of the gout: but the ministry pressed for the next day; observing, that it was an affair of the utmost consequence to the well-being of the

House; that if this power of taking up persons by the Speaker's warrant was taken away, it would be impossible ever to get witnesses, or others, to attend on the summons of the House; that it ought to be proceeded into without the least delay; that no business, though ever so important, should take place of it.

Most of the minority who spoke, asserted also the privileges of the House; but observed, that those privileges were always odious when turned against the people; that these were not proper times to engage the honour of the House in a dispute with the city of London; that it would become the House to preserve a little the privileges of their constituents, as well as of themselves; that this House, from its transactions in the Middlesex election, was odious to the nation, which would not bear from it any more oppressions; that the origin of this affair (the prosecution of the printers) was a silly, ridiculous measure, which served only to irritate the people, without being of the least service.

Some few, as Mr. Sawbridge, sir Joseph Mawbey, &c. declared against the usurped power of the House, and defended the transaction on constitutional grounds: they said, too, that Mr. Oliver and Mr. Wilkes ought to be ordered to attend at the same time; but the ministry did not choose this, and therefore would not suffer that to be a question. The House divided on the amendment; the Yeas went forth.

Tellers.

YEAS	{	Mr. Ald. Sawbridge	-}	80.
		Mr. Baker		
NOES	{	Mr. Burrell	-}	267.
		Mr. Whately		

So it passed in the negative.

Ordered, That Brass Crosby, esq. lord mayor of the city of London, do attend this House in his place to-morrow morning, if his health will permit.

March 19. The lord mayor came from the city, attended by a great crowd of respectable people, as the supporter of their liberties.*

* "In the morning the following hand bill was dispersed about the city:—'To the liverymen, freemen, and citizens of London. Although our lord mayor has been confined to his room for sixteen days, with a severe fit of the gout, and is still much indisposed, he is determined to be this day in his seat at the

The evidence, which was yesterday given to the House by the Deputy Serjeant at Arms attending this House, was read; and the said Deputy Serjeant at Arms was further examined by the said lord mayor.

And then the *Lord Mayor* was heard in his place as follows:

"At the time I was admitted an alderman of the city of London, I took a solemn oath, that I would protect the city of London in their franchises and rights: I have ever done so to the best of my abilities. When I was admitted into the office of lord mayor, I was sworn in the same manner. This brought to my remembrance what a charge I had taken upon myself, to defend the people who were under my particular jurisdiction. I knew that my government, in discharge of the office I was chosen into, was to be from the laws and charters, granted, from time to time, to the citizens of London. By these charters it appears, that no warrant, commands, process, or attachment, shall be executed within the city of London, but by the ministers of the same city. At the time the messenger was brought before me, I asked him particularly, if he was a constable of the city of London, or a peace officer? He said he was not. I then asked him, whether he had applied to any alderman of the city of London to back the warrant, that it might be properly executed? He said he had not. The several charters granted to the city of London have been confirmed by act of parliament, made in the reign of William and Mary. I knew extremely well, that if I had not acted in the manner I did, in discharging that person, I should have been guilty of perjury, or of a breach of my oath; I therefore thought it too conscientious a matter, which was the reason of my acting as I did. Next to supporting and executing the duties of my office of chief magistrate, the duty I owe is to this House: and I should be as tender as any member of this House of the liberties of the Commons of England. But when I knew that my first and grand tie was that of a magistrate of the city of London;

House of Commons, to support your rights and privileges, even though he should be obliged to be carried in a litter. He leaves the Mansion-house at one of the clock."

"And in the afternoon the two following:—'The citizens of London, and all the friends of freedom in this metropolis, are expected to bring

that I thought was, by the oath I had taken, my first duty. I think I have done no more than my duty. I hope this House will be of that opinion. With respect to the commitment, I did sign such a warrant; but at the same time, I rather desired the person might be admitted to bail, which I much pressed. But your officer refused to give bail, though several gentlemen, then present at the Mansion-house, offered to become bail. As this is the state of the matter, I entirely submit to the justice of the House of Commons; but, at the same time, I must glory in my own breast, in having executed what I was sworn to do, at the time of my first becoming a magistrate. If I had gone no further than discharging Miller, and had not proceeded to commit the messenger for the assault, I apprehend I was liable to be called upon in the court of King's-bench, for not executing my duty as a magistrate. This House will, I am persuaded, be very tender, when they find on what motive I acted—I mean the obligation, by the oath I took when I was first appointed a magistrate."

Mr. *Speaker* then asked the Lord Mayor, if he did not choose to call any witnesses, or produce any written evidence, in support of what he had said.

The Lord Mayor called for the city

the lord mayor back again in triumph from the House of Commons, and attend him to the Mansion-house.

"The freemen of London are requested to attend at the House of Commons, in order to conduct their lord mayor back again to his own mansion."

"At two o'clock in the afternoon the lord mayor set out from the Mansion-house in a coach, to attend the House of Commons, in pursuance of a summons, to answer for his conduct on Friday last. His lordship appeared very feeble and infirm, but in good spirits. Mr. Alderman Oliver, and his lordship's chaplain, Mr. Evans, were in the same coach. A prodigious crowd of the better sort were at the Mansion-house and in the streets near it, who testified their approbation by repeated huzzas, which were continued quite from the Mansion-house to the House of Commons. On his arrival there, one universal shout was heard for near three minutes, and the people, during the whole passage to the House, called out to the lord mayor as the 'People's friend, the guardian of the city's right, and the nation's liberties.' About five o'clock his lordship returned home, attended by a great number of people; and the populace took the horses out of the carriage at St. Paul's, and drew the coach to the Mansion-house." *Gentleman's Magazine*.

charters, which he said he had ordered to be brought; but the officer did not attend with them. He then moved, that an Act, made in the 2d of William and Mary, intitled, 'An Act for reversing the judgment in a Quo Warranto against the city of London, and for restoring the city of London to its ancient rights and privileges,' might be read. And the same was read accordingly.

The Lord Mayor acquainting the House, that he found himself out of order, and could not attend any longer, without prejudice to his health, he, with leave of the House, withdrew.

Ordered, That the further consideration of the said matter be adjourned till Friday morning next.

Ordered, That Brass Crosby, esq. lord mayor of the city of London, do attend this House, in his place, upon Friday morning next, if his health will permit.

The lord mayor having informed the House, that he thought himself obliged to act as he did, by the oath he had taken, as lord mayor, to preserve the liberties of the citizens of London, granted by several charters granted to the city of London, and supposed to have been confirmed by act of parliament, desired that counsel might be heard to that point.

Lord North asked Mr. Trecothick a question.

Mr. Trecothick having stood up to answer it, took that opportunity to move, "That counsel be at liberty to be heard to that point;" the lord mayor having declared that what he had done was in consequence of his oath, and the charters of the city of London.

Lord North accused Mr. Trecothick of making his motion unfairly, taking the opportunity which the noble lord's question had given him, of being in possession of the House; for that he ought only to have answered his lordship's question, and left his lordship in possession of the House, who when he should have received the answer, intended to have moved, that the clerk of the lord mayor should attend with the book, in which the recognizances are entered.

The minority, however, insisting on the motion, lord North moved the previous question, and a disorderly debate ensued. On one side it was said, That, as the lord mayor did not deny the privilege of the House, but only claimed for the citizens

an exemption from it, by charters and act of parliament, it was properly a question to be debated by lawyers: that, if the city had this exemption, it was a direct answer to the accusation; as an act of parliament, being the act of the whole legislature, would undoubtedly destroy a privilege of the House. On the other side it was said, that the House had never allowed counsel to be heard against its privileges; and that, as the subject of argument in this case could only be an exemption of the city from this authority, they could not, consistently with the custom of parliament, allow counsel now.

The previous question being put, That that question be now put; the House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. Seymour - - - }	79
	{ Mr. Byng - - - }	
NOES	{ Sir Henry Hoghton - }	202
	{ Mr. Cooper - - - }	

So it passed in the negative.

Lord North then moved, "That — Morgan, clerk to the lord mayor, do attend this House to-morrow morning, with the minutes taken before the lord mayor, relative to the messenger of this House giving security for his appearance, at the next general quarter sessions of the peace for the city of London, to answer such indictments as may be preferred against him, for the supposed assault and imprisonment of J. Miller."

This was supported by Mr. Wedderburne and Mr. C. Fox: they said, that the honour of the House was concerned in vindicating their own act, that having ordered their messenger to apprehend Miller, he could not be guilty of an assault in execution of his office; that it was most disgraceful for the House to suffer their servant, who had equal protection with any member, or even the Speaker, to remain one instant in confinement.

Mr. Dowdeswell and Mr. Dunning, on the contrary, urged that this step was premature; first, as it would prejudice the question against the lord mayor, as it would be saying the House had acted right, which was yet in issue: second, that in cases of breach of the peace, there was no privilege. Now, if the mayor had done right, if the city had such exemption, the seizing Miller must be construed a breach of the peace, and therefore the messenger had no claim to privilege. Mr. Dunning put some very strong cases to prove this.

The House divided. The Yeas went forth.

Tellers.

YEAS	{ Sir John Wrottesley - }	188
	{ Mr. Cooper - - - }	
NOES	{ Sir Joseph Mawbey - }	56
	{ Colonel Jennings - }	

So it was resolved in the affirmative.

Ordered, That Richard Oliver, esq. alderman of the city of London, a member of this House, do attend this House, in his place, upon Friday next.

March 20. The lord mayor having, yesterday, informed the House, that he thought himself obliged to act as he did, by the oath he had taken, as lord mayor, to preserve the liberties of the citizens of London, granted by the several charters granted to the city of London, and supposed to have been confirmed by act of parliament; and having desired that counsel may be heard to this point;

Mr. Trecothick moved, "That counsel be at liberty to be heard, upon Friday morning next, to this point."

Sir George Savile took up the assertion, that it was a rule of the House not to admit counsel to debate on their privileges. He said, that, if there was such a rule, it ought to subsist no longer, being in the highest degree oppressive and unjust; as it would prevent any person, who should be accused before the House, from making his defence, if his defence, as was very likely, should require him to plead to the jurisdiction of the court, which would certainly be to dispute their privileges; that there could be no reason why such person should not make the same plea by counsel, as he might make himself: that the decision upon the merits of the plea would be still in them, which was all that ought in justice to be desired. And he observed further, the rule itself, injurious as it was, did not preclude the lord mayor from pleading by counsel in the present case, as his plea would not be against a privilege, but against the exertion of privilege where there was none. He appealed to the feelings of the House, whether, when counsel was allowed in all courts of justice, to every criminal, even in high treason, this House alone should act on such unjust principles as to deny such aid.

The ministry refused to agree to this; they avowed the rule, though they could bring no instance, except in the reign of

Henry 8, when counsel was denied to a sheriff of London who was accused at the bar; that as the motion now stood, it plainly gave power to the counsel, to be heard against their privilege: to shew, therefore, the extent of this motion, they moved an amendment, by adding "That the House of Commons have not a right to enforce the execution of their orders within the city of London."

This was opposed by the minority, and the debate was carried on with coolness and argument for nine or ten hours. The minority pleaded reason and the constant usage of the courts below; the ministry pleaded the custom of parliament.

Then the question being put, That those words be added, at the end of the said proposed question; the House divided. The Yeas went forth.

Tellers.

YEAS	Doctor Burrell - - -	} 177
	Mr. St. Leger Douglas	
NOES	Sir. Harbord Harbord -	} 83
	Mr. Mackworth - - -	

So it was resolved in the affirmative.

Then the main question, so amended, being put, it passed in the negative.

General Conway then moved, "That the lord mayor of the city of London be at liberty to be heard, upon Friday morning next, by his counsel, upon all such points as do not controvert the privileges of this House."

This the minority protested against as a mockery; it was opening the mouths of counsel, and at the same time telling them they should not speak, as it would be impossible to plead the lord mayor's case without, in some degree, controverting the privileges of the House. The motion was carried.

The order of the day being read, for the attendance of John Wilkes, esq. alderman of London,

Sir Joseph Mawbey said: When I made the motion originally for the attendance of Mr. Wilkes, I did it without any communication, directly or indirectly, with him on the subject, and without knowing whether it would or would not be agreeable to him. I desired this attendance, because he appeared to me to be equally criminal, if any criminality had been incurred, which I deny, with the worthy chief magistrate, who has been ordered to attend in his place: he was aiding, assisting, and advising in the steps that led to

the commitment of the messenger for an assault, which has given such umbrage to the House. I will go farther, and say, though it has not yet come out in evidence before the House, that every gentleman knows, that after this House had addressed the crown to advertise a reward for apprehending the printers, and when, in consequence of a proclamation for that purpose, one of them was so apprehended, Mr. Wilkes first began the insult on what you call your privilege, discharged the printer, and bound the person over in a recognizance to answer for such apprehension. If any thing criminal has been done, he is certainly the greatest criminal; and yet gentlemen who have felt so much for the honour and privilege of the House, betrayed a disposition to take no sort of notice of him. I thought he should be ordered to attend, and, in consequence, he was directed to attend this day. I have not seen him since; but when I came to attend my duty here, I had this letter put into my hands in the lobby, by a gentleman sent by him, which is now unopened, and which I was desired to deliver to the Speaker in the name of Mr. Wilkes: I deliver it accordingly, and desire it may be read.

Mr. Speaker.—I must complain to the House of the hon. gentleman's disrespect to me personally, and of the indignity offered to the House, in not delivering sooner the letter into my hands; he ought in candour to have given it me earlier in the day; I will not look at the contents, it shall not be opened now—it is using me with want of respect; and I submit to the House, whether the hon. gentleman's conduct does not deserve reprehension. How can I tell whether the letter be proper or not to be communicated to the House till I have read it? I have received many letters lately, the contents of which have been very improper.

After this there was a cry of 'hear, hear,' from gentlemen near the treasury-bench, as if they assented to the propriety of the Speaker's rebuke of sir Joseph.

Mr. Dyson objected to the letter being read.

Sir Joseph Mawbey. I trust the House has too much candour to condemn me unheard; and I hope so to explain my conduct, that it shall no longer appear either personally disrespectful to you, Sir, or derogatory to the dignity of the House. My delay in delivering the letter was so

far from being the effect of incivility, that it arose merely from an opinion, which yet I see no reason to give up, that it could not with propriety be delivered sooner. I conceived, Sir, and so I do still, that I should have been guilty of a breach of order, if I had delivered it before the order of the day for Mr. Wilkes's attendance had been read. The letter, though it is directed to you, was designed for the House; it relates to an order of the House; and you, Sir, are a servant of the House, and through you, in virtue of your situation, it was to be communicated to the House. It was put into my hands in the lobby after two o'clock, and if I had delivered it sooner, I must have intruded upon the private business in which you and the House were then engaged, or have interrupted the important motion which has for so many hours fixed the attention of the House; and in either case I should have thought my conduct highly improper. I thought the only time when the letter could be delivered with propriety, was that when I did deliver it; when the name of Mr. Wilkes was regularly brought before you by the order of the day, and when the noble lord was about to renew the order for his attendance.

Mr. Thomas De Grey :

Sir; I am afraid, it is too manifest that nothing is intended by the hon. gentleman who has delivered the letter, and his party, but delay. My lord mayor's indisposition is to put off our business for a day; then the business of the two aldermen is to be taken into consideration. But there is a collateral point to be carried; the worthy alderman and Mr. Wilkes are afraid of being forgotten by their friends the mob, and they want to treat them with another holiday: they can be made conspicuous only by our notice, and it is only by our notice that the great patriot can be preserved from total obloquy and contempt. I am, therefore, of opinion, that we should give ourselves no trouble about them. Our proceeding against them, will be at once an injury to us, and a benefit to them; it may make a prorogation necessary, which is what they want to bring on, and what we ought to avoid. I hope, therefore, we shall proceed in asserting our privileges without delay.

Lord John Cavendish :

Sir; I do not rise up to say a

word about the letter; for the reading or not reading it are to me perfectly indifferent: but I rise to remind gentlemen who talk of delay, that our other business is interrupted by a subject which they have brought before us, and of which, therefore, I hope, they do not wish to prevent a fair discussion. Our time has, indeed, been taken up; but I see no colour for complaints of delay. The lord mayor thought counsel necessary; you deny that he ought to have counsel: a debate ensues; where is the delay? If gentlemen did not think this business worthy of our time, they should not have brought it before us: if it is expected that we should decide, certainly we ought to have time to examine.

Mr. Dowdeswell :

Sir; I know nothing of the letter that has been delivered to you; but I think my hon. friend behind me perfectly in the right, with respect to the time that he took to present it. The letter may contain reasons why Mr. Wilkes does not chuse to appear in consequence of your order; and what time so proper for delivering such reasons as when the order for his appearance is read? And, now I am up, I desire to know why we have heard nothing of the Proclamation. Is the discharging a person, who has been apprehended in consequence of an address of the House, less an offence against its privileges, than the binding over your messenger to appear for an assault? Are gentlemen so delicately tender upon this point, because the proclamation was illegal? If the proclamation was legal, the discharge was not legal; and yet we hear nothing about it. Mr. Twine Carpenter seizes the person of Mr. Wheble, in consequence of the proclamation, and is forced to enter into a recognizance for his appearance for an assault, and yet you take no care of him.

Mr. Solicitor General Wedderburn :

Sir; whether the proclamation be legal or not, I shall not now say; I have never given that question any discussion. I hope that proclamation will never come here; the courts of law are the proper places to determine that question; and not the House of Commons. I hope the legality of proclamation, on the part of the crown, will never come to be discussed any where. As to Mr. Twine Carpenter, for whom the hon. gentleman has thought

fit to become an advocate, I shall certainly oppose the giving him any support; he is neither more nor less than a familiar of Mr. Wheble, called his devil; by a compact between this devil and Wheble, the devil arrests him. This arrest, the city magistrates determined to be illegal, and therefore they bound the devil over to answer for what he had done. Now, as it manifestly appears, that the devil and the printer are in compact, I think the wisest thing we can do, is to leave the devil to the printer, and the printer to his devil. Whether printer beats devil, or devil beats printer, is of no consequence. There may, possibly, be the devil to do, and certainly there will be the devil to pay; but that is nothing to us: if the devil has been paid already, and received the reward that was offered by the proclamation, he has fairly out-witted the noble lord near me. Whether he has, or has not, I do not know; but I hope that the devil will find no friends in this House, and that however busy he may have been in the city, and however busy the city may have been with him, we shall have nothing to do with him, nor give him an opportunity of having any thing to do with us.

Lord North then moved, that Mr. Wilkes might attend the House on Monday morning.

Mr. Seymour said, that he could not suffer the affair of the proclamation to drop; that no gentleman seemed bold enough to support it; but he declared it to be illegal, and would certainly bring the question before the House for a serious discussion before the session should be ended.

Sir Joseph Mawbey attempted several times to read a copy of Wilkes's Letter,*

* The following is a COPY of Mr. Wilkes's LETTER to the Speaker :

"London, March 20, 1771.

"Sir; I this morning received an order, commanding my attendance this day in the House of Commons. I observe that no notice is taken of me in your order as a member of the House, and that I am not required to attend in my place. Both these circumstances, according to the settled form, ought to have been mentioned in my case, and I hold them absolutely indispensable. In the name of the freeholders of Middlesex I again demand my seat in parliament, having the honour of being freely chosen, by a very great majority, one of the representatives for the said county. I am ready to take the oaths, prescribed by law, and to give

[VOL. XVII.]

but was as often called to order, and prevented from going on. He then said with some warmth, I submit to the noble lord's consideration, whether he will renew the order for Mr. Wilkes's attendance; I believe such order will not be complied with. I was at first, am still, and shall continue to the last hour of my life, to be of opinion, that he ought to attend in his place, and——

General Conway :

I speak to order. I cannot sit still and hear the hon. gentleman arraign and vilify the acts of this House, in violation of all decency; it is turning our deliberations into farce, and setting them up as the object of ridicule. I have no personal disrespect to the hon. gentleman, but I think every member bound to support the honour of the House. He has arraigned the acts of this House, and, if that is suffered, this House is nothing but a name, without dignity, without influence, without legislative authority. I call upon the House to assert and support its own resolutions; and I call upon the hon. gentleman to reconcile an attempt to read a letter, after having disclaimed a knowledge of its contents, either with common sense, or the laws of the House, or the duty of his station.

Mr. Solicitor General Wedderburn :

I agree in the opinion of the hon. gentleman who spoke last, and think that the expression which he has censured is a breach of order: it strikes at the very existence, as well as the honour of parliament; and we ought immediately to take it into consideration.

Mr. Cavendish :

I speak to order, Sir, but I apprehend it has not been broken by the hon.

in my qualification as knight of the shire. When I have been admitted to my seat, I will immediately give the House the most exact detail, which will necessarily comprehend a full justification of my conduct relative to the late illegal proclamation, equally injurious to the honour of the crown, and the rights of the subject, and likewise the whole business of the printers. I have acted entirely from a sense of duty to this great city, whose franchises I am sworn to maintain, and to my country, whose noble constitution I reverence, and whose liberties, at the price of my blood, at the last moment of my life, I will defend and support. I am, Sir, your most humble servant,

"JOHN WILKES."

[1]

gentleman who produced the letter, but by those who have thought fit to censure and interrupt him. I apprehend, Sir, that every man has a right to arraign even an act of parliament, if he thinks it improper or pernicious; for upon what, but such a right, is the repeal and amendment of acts of parliament founded? And surely, Sir, if a member of this House has a right to express freely his sentiments concerning an act of parliament, he can be under no restraints with respect to a resolution of this House. I think the hon. gentleman had a right to say what he did. He said, that he thought Mr. Wilkes ought to attend in his place; and what is there disorderly or reprehensible in that?

Mr. Charles Fox :

I speak to order; the words were not taken down, but it seems to be agreed, that the hon. gentleman said, Mr. Wilkes ought to attend *in his place*; and I insist upon it, that in this expression he was disorderly; for the House has determined, that Mr. Wilkes has no place in this House. If the declaration of a single member, contrary to a resolution of the House, is not disorderly, there is no such thing as disorder. The House says, Mr. Wilkes has no place; the hon. gentleman, by implication, says he has a place. This is treating the House, so as no gentlemen treat each other, and the absurdity of inferring a right to do this, from a right to object to inconveniences arising from an act of parliament, as reasons for a repeal of it, is as gross as the insult. The validity of an act of parliament is admitted by the very first motion towards its repeal; and it is not its efficacy, but its propriety that is brought into question. But what has now been said, does not attack the propriety of a resolution, but its efficacy. The House has resolved, that Mr. Wilkes has no place here, and the hon. gentleman does not say that he ought to have a place here, but that he has one. If this, Sir, is not a denial of the power, and even the existence of this House, I should be glad to know what is.

Sir Joseph Mawbey :

If the House is of opinion that I ought not to go into any arraignment of past proceedings, I will not attempt to repeat it; but I hope to be permitted to reply to some things that have fallen from the hon. gentlemen who have called me to order. The hon. gentleman under the

gallery said, that on first giving in the letter, I disclaimed a knowledge of its contents. Sir, I insist upon it I said no such thing; I am in the judgment and recollection of the House; I did not, I could not mean to say any thing like it. The letter was given me by a gentleman in the lobby; he gave me at the same time the copy attempted to read in Mr. Wilkes's own hand-writing. I had some doubts in my own mind, whether the House would receive the letter; if they should not, I always intended to communicate the contents as part of my speech. I was glad to know the contents for another reason, that I might put nothing indecent or improper into your hands. I cautiously avoided saying any thing that might look like an ignorance of the contents of the letter; the hon. gentleman, therefore, was totally mistaken, when he said I had disclaimed a knowledge of the contents of the letter. I did not expect, after the very lively, pleasant, and jocular manner in which the learned counsel has entertained the House lately, that he, above all men, would have reflected upon my not being serious; I was pleased with his pleasantry, because it relieved the House much, after a debate that has been very long, and of a sort not in general the most entertaining. I possess none of that hon. gentleman's faculties. If the House ever laughs at any thing that falls from me, it must be at my absurdities. An hon. gentleman has talked of buffoonery; is it then buffoonery to give the House an account of the reasons which induced a gentleman who was ordered to attend you, to refuse such attendance? I wished to have given them the letter; since that is denied me, I am to tell the House, that Mr. Wilkes refuses, and will refuse to attend you, because the order was not made out for him to attend in his place. He says, what you, I know, will deny, that he was duly elected knight of the shire for the county of Middlesex, by a great majority of the freeholders of that county; that he still considers himself to be, what you will also deny, the legal representative of that county; he insists on taking his seat in this House, and says he cannot attend, unless the order be made out in the usual manner for a member. An hon. gentleman says, he desires to take no notice of Mr. Wilkes, nor Mr. Oliver, because it will render them important. Will not that argument have as much weight when applied to the lord-mayor? That magistrate,

my hon. friend, was before high in the estimation of his fellow citizens. I believe his late conduct will not sink his reputation. He will take no notice of Mr. Wilkes or Mr. Oliver. Will you suffer them then again to commit your messenger? Is Mr. Wilkes to be considered as above or beneath the law? Will he not again release your prisoners? These arguments I submit to the noble lord as a reason why he should consider whether in his mind he should order Mr. Wilkes again to attend.

Lord North's motion was agreed to.

The other order of the day was for the attendance of Mr. Morgan, the lord mayor's clerk, with the book of recognizances. He was called in; and ordered up to the table. The book was opened, and the recognizance of William Whitham, messenger to the House, read.

The aldermen, Oliver, Sawbridge, Trecothick, and several other members, were so shocked at this violent and arbitrary attack on the laws of the land, that they could not bear to be spectators of the alarming transaction which they expected would follow, and therefore immediately left the House.

Lord North moved, that the messenger's recognizance be erased out of the lord mayor's book. Lord Beauchamp seconded the motion. Then, as they had the lord mayor's clerk in their custody, they made him erase it.

Lord North moved, that there should be no further proceedings at law in that case. Lord Beauchamp seconded that motion. It was then made a Resolution of the House.

March 22. The several orders of the day being read, for taking into further consideration the evidence, which, upon Monday last, was given to this House, by the deputy Serjeant at Arms; and for the attendance of Brass Crosby, esq. lord mayor of London, in his place; Mr. Speaker acquainted the House, that he had received a letter from the lord mayor, desiring him to inform the House, that his late attendance upon the House had increased his disorder; that he was at present unable to go abroad; but would attend in his place as soon as his health would permit. And the said letter was read.

Ordered, That the further consideration of the said matter be adjourned till Monday next. That Brass Crosby, esq. lord mayor of London, do attend this House,

in his place, upon Monday next, if his health will then permit. That the lord mayor be then at liberty to be heard, by his counsel, upon all such points as do not controvert the privileges of this House.

Mr. *Welbore Ellis* moved, that Mr. Alderman Oliver be now proceeded against. He urged, that the case of the lord mayor and of the aldermen was different; that the lord mayor had taken J. Miller, the printer, out of the hands of the messenger, in which the aldermen had no share; but that the imprisoning the messenger was a distinct fact, which the aldermen were concerned in, and which might now be tried, as well as it could be, after the affair of the lord mayor should be finished. Lord North seconded the motion.

Mr. Ellis having said, that the privileges of the House had not only been disputed in general, but had been now called in question in form,

Governor *Pownall* observed, that the House had certain known privileges, which being according to the course of parliament, were founded in common law; that the House had other privileges which had the sanction of statute law; and therefore desired that gentlemen would say, what those privileges were which now required new sanctions, and would open so much of what was intended thereby, that those who seriously meant to do their duty, might have the opportunity of forming their judgment.

Mr. Alderman *Oliver* acquainted the House, that he was ready, immediately, to enter into his defence; but that, being a magistrate of the city of London, he did not wish to separate his interests from those of the city, and that therefore he was desirous not to separate his defence,

It was therefore moved, by sir W. Meredith, and seconded by Mr. Calcraft, That Mr. Alderman Oliver do attend this House in his place on Monday, and that he then be at liberty to be heard by his counsel.

It was urged, that if Mr. Oliver was heard at present, before the whole affair was entered into, it would, in some respect, be an adjudication of the case of the lord mayor, whose defence would be abridged, by a decision on the consequences of his act, before the act itself was condemned; that the aldermen being accessaries only, they could not properly be tried before the principal; that, were it otherwise, it might happen that the accessaries might be found guilty, and the

principal acquitted; that the House being both the party injured, and the judge of that injury, it became most indispensably necessary for justice, that every step should be taken which might give the fullest insight into the affair. The ministry did not oppose this delay.

Lord *North* declaimed very much against the conduct of the city, as tending to destroy the very being of parliament; that it was essential to proceed into this affair with all possible dispatch; that the sickness of the lord mayor would not, he hoped, be used for longer delays; but that on Monday next, the defence should absolutely be gone into.

Mr. *Dowdeswell* got up to speak, but the House was so noisy he could not be heard; upon which, with some warmth, he moved to adjourn, and divided the House. But the ministry carried it against him 148 to 48. Mr. *Oliver's* attendance was then fixed for Monday.

Mr. *Welbore Ellis* moved an Amendment to the Resolution, that Mr. *Oliver* should be heard by counsel, "upon all such points as do not controvert the privileges of this House," which was agreed to.

Debate in the Commons on Committing Brass Crosby, esq. Lord Mayor of London, and Mr. Alderman Oliver to the Tower.] March 25. The several orders of the day being read, for the attendance of Brass Crosby, esq. lord mayor of London, and Richard Oliver, esq. alderman of the city of London, in their places;*

* "About two o'clock, the lord mayor, attended by Mr. Alderman Oliver, went from the Mansion-house, to attend in their respective places in the House of Commons, pursuant to orders issued to them on Friday last. There was a prodigious concourse of people about the Mansion-house to see them come out, and the crowd continued to encrease the whole way to Westminster-hall. When the members of the House of Commons had taken their seats, the House proceeded to the discussion of the very tender and delicate matter before them. About half past ten o'clock, his lordship finding his strength exhausted, and being unable to bear the pain and fatigue any longer, begged permission to retire; which being granted, he returned to the city, attended as before by a vast concourse of people, who took the horses from the coach, and drew it all the way to the Mansion-house, testifying their approbation of his lordship's conduct by the loudest acclamations and repeated shouts of applause." *Gentleman's Magazine*.

And the Lord Mayor attending accordingly in his place, acquainted the House, that he had received the Resolution of this House of Friday last, for allowing him liberty to be heard, by his counsel, upon all such points as do not controvert the privileges of this House; but that finding the counsel were, by that Resolution, restrained from speaking to many points material to his defence, and that the counsel he could depend upon, and whom he wished to employ, were on the circuit; he therefore would not give the House the trouble of hearing counsel on this occasion.

Then the evidence, which, upon Monday last, was given to the House, by the deputy Serjeant at Arms attending this House, was read; and the minutes of what the lord mayor had offered to the House, in his defence, upon Tuesday last, were also read.

And the original Charter, granted to the city of London, upon the 6th of March, in the first year of Edward 3, was produced, and read.

And the House being informed, that a person attended at the door, with a book, containing the oaths taken by the magistrates of the city of London; he was called in; and the book being produced, the copy of the oath taken by an alderman of the city of London, and also the oath of the lord mayor, were read. And then the lord mayor was further heard.

His lordship said, The House had now heard read the oaths he had taken as a magistrate of the city of London: he appealed to those oaths when he was here before; and he thought the House, now they had heard them read, would be satisfied that he could act no otherwise than he did, in doing right to every man who was brought before him: he gloried in having done that, and he was persuaded that every member of the House would be of the same opinion. But he must still further appeal, if it was necessary, that he had acted agreeably to the laws and constitution of his country, in protecting the liberties of the subject, which he saw most manifestly invaded. As he said before, he said then, that he appealed to the justice of the House.

Mr. *Welbore Ellis* then began. He observed, that the privileges in question were essential to the very being of this House, as without them the House could neither act in its judicial, legislative, or inquisitorial capacity; that they were a check to

the power of the other branches of the legislature; that the cause of liberty was the cause of this House; if the powers of this House were weakened, liberty would be so too. As this power was necessary, so it was always acknowledged by the courts below, who always confirmed or did not dispute this power; that the practice of parliament was invariably the same; the ground of doubt was the charter of London, which gave or could give no power not inherent in the crown, and that the crown had no power over the privileges of this House; that the general order concerning the printers not printing the debates of the House was not a new thing; that it had been begun in 1641, and at different times renewed to this House. He then moved, "That the discharging out of the custody of one of the messengers of this House, J. Miller, (for whom the newspaper, entitled, 'The London Evening Post, from Thursday, March 7, to Saturday, March 9, 1771,' purports to be printed, and of which Paper a complaint was made in the House of Commons, on the 12th day of this instant March, and who, for his contempt, in not obeying the order of this House, for his attendance on the House upon Thursday the 14th instant, was ordered to be taken into the custody of the Serjeant at Arms, or his deputy, attending this House; and who, by virtue of the Speaker's warrant, issued under the said order, had been taken into the custody of the said messenger) is a breach of the privilege of this House."

Sir G. Savile opposed this motion, as the House had already gone too far, and what they had done tended to overturn the just power of the House. That the House of Commons might best be trusted with such a great power, but if the House was not the true representatives of the people, by so much the worse was any power in them. By denying counsel, or granting a meeting of counsel, the proceeding had been unjust and vitiated *ab initio*: that in this state he could not decide on the question now before the House, and should therefore move the previous question, to give time to the House to revise their proceedings. He hoped, that whilst they were thus employed in underpinning or propping up the powers of the House, it would not tumble about their ears.

Alderman Townsend observed, that this question was between the people and

their representatives; had he been in the lord mayor's situation, he would have done the same; that though this might be within the prerogative privileges, yet it was against the statute privileges of the House; whenever the former were extended at the expence of the people, he hoped the people would tear them from the House. He observed, that the King claimed also more prerogative to himself, as did also the House of Lords, witness their late illegal commitment and fine on Woodfall the printer; that all those prerogatives, joined to those claimed by the Commons, would leave the people scarcely the shadow of liberty. It was the opinion of chief justice Holt, that the parliament at large could not create privileges against law, much less can the House of Commons. When the Commons used their privileges against the crown, the people joined with the parliament in supporting them, and at that time they had the force of laws; the same in their disputes with the House of Lords; but when used against the people, the people discontented would be alarmed for their liberty, "and by opposing end them." He apprehended there was a settled intention in government to root out the people's liberties; it had begun in modelling the House, and now extended to the liberty of the press, and shutting up courts of justice. There was a power greater than that of the King, which had of late controverted all administration, that of the princess of Wales, into whose influence over our councils the House ought to make enquiry.

The ministry opposed the previous question, observing, that the necessity of a power to send for persons, papers, and records, constituted the essence of the House of Commons; that their privileges were the privileges of the people, and to lessen them would ruin their liberty; that so long ago as 1641, the House had made resolutions in respect of publishing their proceedings or debates, which had been confirmed in after times at different periods; that as to counsel being heard, it would have been a new supposition in the House, which was so jealous of their privileges, as never to allow any discussion of them any where but in the House.

The House being informed of a tumultuous crowd, in Palace-yard, and in the passages leading to the House, who interrupted members in their coming into the House, the high constable of the city of Westminster was called in, and examined

as to the said tumultuous crowd; and he acquainted the House, that he had done every thing in his power to disperse them, with the assistance of a great number of the constables of Westminster; but that all his endeavours had been in vain.

The House was moved, that the entry in the Journal of the House, of the 27th of February 1699, of the proceedings of the House, in relation to the information given to the House, of a crowd of people being got together, in a tumultuous and riotous manner, in the Palace-yard, Westminster-hall, and the passages to this House, might be read. And the same being read accordingly; and the House being informed, that several of the justices of the peace of Middlesex and Westminster attended, they were called in; and, at the bar, Mr. Speaker, by order of the House, acquainted them, that the House had received information of the said tumultuous crowd; and that the House did expect that they should, together with the other magistrates now sitting at the Guildhall of the city of Westminster, forthwith do every thing in their power to disperse that riotous crowd; and that they should, as soon as they were able, return, and inform the House what they had done in this matter. And then they withdrew.

And, after some time, the House being informed, that the said justices were again attending; they were called in; and, at the bar, acquainted the House, that they had, in obedience to the orders of the House, in a great measure dispersed the crowd, and cleared the passages for the members coming into the House; but that there was still a great crowd in the Court of Requests; and Mr. Speaker directed them still to attend, and to continue and use their endeavours to keep every thing quiet. And then they again withdrew.

The Lord Mayor then acquainting the House, that he found himself extremely ill; and therefore hoped that the House would dispense with his further attendance at present; but hoped the matter might go on in his absence; and that he should submit himself to every thing the House should do; he, with leave of the House, withdrew.

Then the said previous question being put, That the first proposed question be now put; the House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Onslow - - -	}	272
		Mr. Charles Fox - -		
NOES	{	Mr. Byng - - -	}	90
		Mr. Seymour - - -		

So it was resolved in the affirmative.

Then the main question being put;

Resolved, 1. That the discharging out of the custody of one of the messengers of this House J. Miller (for whom the newspaper, intituled, "The London Evening Post, from Thursday, March 7, to Saturday, March 9, 1771," purports to be printed, and of which paper a complaint was made in the House of Commons, on the 12th day of this instant March, and who, for his contempt, in not obeying the order of this House, for his attendance on the House upon Thursday the 14th day of this instant March, was ordered to be taken into the custody of the Serjeant at Arms, or his deputy, attending this House, and who, by virtue of the Speaker's warrant issued under the said order, had been taken into the custody of the said messenger) is a breach of the privilege of this House.

2. That the signing a warrant against the said messenger, for having executed the said warrant of the Speaker, is a breach of the privilege of this House.

3. That the holding the said messenger to bail, for having executed the said warrant of the Speaker, is a breach of the privilege of this House.

Mr. *Wallace* then proposed to proceed against Mr. Alderman Oliver.

Colonel *Barré* observed, that it was then near one in the morning; that no court of judicature in the world would proceed on a new trial at this hour: he therefore moved to adjourn.

The House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Walsingham - - -	}	97
		Mr. Baker - - -		
NOES	{	Dr. Burrell - - -	}	214
		Mr. Jolliffe - - -		

So it passed in the negative.

Mr. Alderman *Oliver*, according to order, then attending in his place; and it being proposed to him, by Mr. Speaker, that the deputy Serjeant at Arms should be again examined, or that the evidence given to this House by the said deputy

serjeant, upon Monday last, should be again read ;

He acquainted the House, that he did not desire the said evidence to be read again, or any witness to be called ; and that he should not say any thing in his defence. He declared that he owned and gloried in the fact laid to his charge ; that he knew, that, whatever punishment was intended for him, nothing he could say would avert it ; that as for himself, he was perfectly unconcerned ; and, as he expected little from their justice, he defied their power.—Upon which,

Mr. *Welbore Ellis* rose and said :*

Sir ; at a time when we are told by every pretender to patriotism, that nothing but parliamentary independency can possibly maintain the liberties of the people ; it is with astonishment I see two magistrates of the first city in the British empire, endeavouring to destroy the very existence of parliament, and even triumphing, though members of this House, in having violated those privileges, which are essentially necessary to the maintenance of our just weight in the constitution.

Sir, one of the most favourite principles of the present opposition is, that all authority is originally derived from the people, and that in exigencies of peculiar necessity, where the law has provided no remedy for unforeseen criminalities, that then the power of the people should interpose, and the safety of the state even justify occasional infractions upon the established ordinances of the kingdom. The opposition, however, while it reasons in this manner, while it contends for this all-ruling supremacy in the people, never once reflects, that it is actually enforcing the propriety of parliamentary privilege. This House, Sir, in its legislative capacity, constitutes the only people of England which the law acknowledges : on the expiration of our term indeed, or our dissolution by the royal proclamation, our power reverts to the hands of our constituents, and the moment they elect new representatives, these representatives, and not the constituents, again become the legal body of the people. To imagine any other people, either in a judicial, or an argumentative sense, is to lay the political axe immediately at the root of our constitution ; it is to substitute anarchy in the room of order, and to drag down that very de-

struction upon our heads, from which our modern reformers tell us their only solicitude is to preserve us.

As we are therefore the people of England, Sir, nothing is more absurd than to say we are trampling upon the rights of the nation, when we are merely supporting our own constitutional claims, and exercising those powers, which have been immemorially allowed us for the most salutary purposes. Gentlemen tell us, that the privileges of parliament are manifestly repugnant to the spirit, nay, to the letter of *Magna Charta*—manifestly repugnant to many positive statutes, which declare, that the subject shall not be deprived of his freedom, but by the immediate law of the land. Now, the law of the land, according to these notable casuists, consists in an act passed by the joint concurrence of the three estates in parliament, and not in the private resolution of any one ; to set up the private resolution of any one, they plausibly enough argue, above the joint act of the three, is to commit a murder upon common sense, and to overthrow every idea of rational government.

It is not a little unfortunate however for the opposition, that the law of the land, which is thus pleaded against parliamentary privilege, actually admits the exercise of privilege in the most unbounded latitude. It expresses, for instance, in the 9th clause of the *Bill of Rights*—“ That the proceedings of parliament ought not to be impeached or questioned, in any court or place out of parliament.” How, then, have the city magistrates dared to say, that their paltry corporation charters are to be put in competition with the dignity of parliament ? How dare they set their inconsiderable claims above the whole body of the British people ? Or how dare they imagine, that a Guildhall justice is to determine upon the privileges of this House, when neither the Lords, nor the crown, would pretend to so dangerous liberty ?

Sir, during the debates on the *Middlesex* election, when patriotism called upon us to know, whether the resolutions of this House should be considered as superior to the law of the land, it was repeatedly observed, that if the law of the land recognized, if it confirmed our privileges, that they could by no means be illegal. By the law of the land it was observed, Sir, that a man refusing to pay a just debt was liable to be arrested—whereas by the privilege of parliament, the person of a mem-

* From the *London Magazine*.

ber was rendered sacred—he could not be arrested for debt, and the officer arresting him was subject to the displeasure of this House. The very meaning of the term privilege implies a particular right of dispensing with particular laws—and privilege was originally claimed, as well as originally granted, for the public good of the kingdom—to serve as a check upon the power of the peers, and the prerogative of the crown, and to make the scale of the people as important in the constitution. Will the friends of the people therefore contend, that the House of Commons should be made inferior in their legislative capacity, either to the peers or the crown? Shall they, while equal to both in the formation of laws, be rendered less respectable in the circumstance of privilege? God forbid. The consequences are big with horror; they shake the temple of freedom to its very centre, and threaten instant annihilation to everything, which can possibly be dear to the independency of the British empire.

Sir, let us for a moment launch out into the regions of political supposition, and grant, with our popular reformers, that parliamentary privilege is a monster which calls for immediate extermination, and cannot exist without manifest danger to the community: still it is necessary to enquire, whether the extermination is not more destructive than beneficial, and more likely to increase than diminish the catalogue of grievances. If privilege is removed, every individual in the kingdom will undoubtedly be indulged with an opportunity of abusing parliament; of misrepresenting its proceedings, and inculcating a general contempt for all legal authority. Such will be the benefits resulting from the total abolition of privilege; but if this abolition is suffered to take place, and if the written, the positive law of the land only, is to be restrictive upon the person of the subject—if the Commons are allowed no inherent power of imprisoning, where their orders are disregarded, what returning officer will attend them, who may have misbehaved on a general election? Every such officer will send up his patron, or his friend, to parliament, when there is no legal court in being to punish his delinquency; and this House, from a representative of the people, will speedily degenerate into the tyrants, or the creatures of sheriffs, bailiffs, and portreeves: universal anarchy must succeed to tolerable order, and if we now find it difficult

to preserve the purity of election, that preservation must become utterly impossible, whenever the salutary rod of correction is taken out of our hands.

In reality, Sir, nothing but the excessive folly of our modern patriots could desire the abolition of our privileges; for let us even suppose the present representatives of the people to be every thing which they are pictured by the licentiousness of faction, still does it follow, that their turpitude is to lessen the dignity of their successors down the whole lapse of time, and that a power, confessedly salutary in the custody of honest men, is to be annihilated, because it may be occasionally abused by men of profligate characters? If the electors of Great Britain can depend upon their own virtues, they may at all times depend upon that of their members; but, if the fountain of elective legislation is once rendered impure, the streams must naturally be corrupted; venal constituents must of course produce venal representatives, and such, whether privilege is, or is not, taken away, will always have the power of overturning our happy constitution.

Sir, the farther I enter upon the subject of parliamentary privilege, the more I am astonished at the infatuation of our political reformers. Their principal exclamation is for the punishment of bad ministers, for the reformation of abuses, and for an enquiry into the conduct of our judges upon some late judicial determinations; yet if an Englishman is bound by nothing but the express, the written law of the land, how are the Commons ever to impeach a minister, or to answer any other end of their institution? Take away their power of imprisoning persons, or demanding papers, and you render them totally useless; you give every individual of the whole community a right of despising their authority; for who, give me leave to ask, will attend their orders if unobliged to attend? Will the monopolizer shew a voluntary obedience to their commands against his own interest? Will the proprietor of common take a journey of perhaps a hundred miles at his own expence, to counteract his own inclinations, when he is left at liberty to decline it? And above all, will the venal judge, or the arbitrary minister dread the indignation of this House, when none are bound to give testimony of their guilt, and when the evidences of this guilt may be particularly desirous to conceal it?

Seeing therefore, Sir, that the destruction of parliament must necessarily follow the abolition of privilege, and seeing that the liberties of the subject can have no existence independent of this House, I must now proceed to a very painful, though a very essential part of my duty, and complain of Mr. Alderman Oliver, one of our own members, for a daring violation of our privileges. By a long and well known order of the Commons in parliament, it is highly criminal in any printer to publish an account of our debates without your particular permission, Sir. In the most popular periods of the English history, a proper regard was paid to the dignity of our deliberations, and even favourite ministers have sometimes thought a compliment to these deliberations, a freedom injurious to the sanctity of our legislative character; but to such an extravagance has the licentiousness of sedition at present extended, that patriotism has thrown off all restraint, and made it actually meritorious, not only to vilify our determinations, day after day, but to deny our very being as a legal representative of the people. I need not, Sir, dwell upon the grossness of these infamous publications, nor mention the unexampled lenity of the House, in bearing it with so much patience. Our resentment has at last been roused, and we have ordered some of the delinquents to be apprehended; yet, Sir, though we are the sole judges by law of our own privileges, though we exercised no power but what has been immemorially exercised by our predecessors, Mr. Oliver, nevertheless, while holding a seat in this House, has thought proper to oppose our resolution, and set the mere municipal charters of the city, above the rights of the British Commons, as if the inhabitants of London were superior to the whole body of the people at large; and as if the true friend of this kingdom could ever wish to invest the crown with a discretionary rule over the indisputable claims of parliament. I therefore move, "That Richard Oliver, esq. a member of this House, having signed a warrant for the commitment of the messenger of this House, for having executed the warrant of the Speaker, issued under an order of this House, and having held the said messenger to bail, is guilty of a breach of the privilege of this House."

This Resolution was agreed to without a division. After which, Mr. Ellis moved, "That Richard Oliver, esq. an alderman

[VOL. XVII.]

of the city of London, and a member of this House, be, for his said offence, committed to the Tower of London."

Colonel Onslow seconded the motion. In the course of this day's debates, the following Speeches were made:

Sir George Savile said:

Sir; I have a few short arguments to urge against the violent measures now proposed; measures as injurious in my opinion to the honour of this House, as to the dignity of the first city in the British empire. The right hon. gentleman, to whom we are indebted for the motion on your table, has been very elaborate in his explanation of parliamentary privilege; but though his explanation may be very able, I cannot persuade myself that it is very just. The resolutions of this House, Sir, are, I grant, truly respectable, but the laws are still more respectable; and if in one instance the private order of a single estate, is to supersede the established ordinances of the land, where are we to draw a line? discretion can know no restriction, and to annihilate the existence of the three estates, which must be the case, if the private order of one passes for law, is to annihilate the very constitution.

But not to trouble you, Sir, upon a point so self-evidently convincing, let me ask you, for what the city magistrates are to be punished in this rigorous manner? They have only defended those laws which they were sworn to defend; they have only fulfilled their well-known oath of magistracy, and asserted the sanctity of charters, which grant particular immunities to their fellow-citizens. Are we to be angry with them for a conduct of this nature, Sir? Are we to throw them into dungeons, because they have acted with remarkable integrity? For God's sake, Sir, let us never erect such a monument to our own dishonour. Never let it be said, that we persecute our fellow subjects for refusing to commit perjury; nor because we are perfidious in the discharge of our own duty, deem it criminal in others not to imitate the perfidy.

In reality, Sir, we are sufficiently obnoxious, sufficiently detestable to the nation already, and if we have no regard for the city magistrates, we should at least have some little consideration for ourselves. Remember, Sir, the lord mayor of London applied for counsel, and was refused. Remember, Sir, you have heard the accusation, but denied the smallest attention to

[K]

the defence. Let me exhort the House therefore, from principles of prudence, to pass a negative upon the present question. The passions of the people are but just beginning to subside, to rouse them again may be fatal; and their enemies will find that if freedom is to fall, it will inevitably be attended with their own destruction. It has been industriously inculcated by the friends of this motion without doors, that we are a supreme court of judicature in matters of privilege: but did you ever hear a court of judicature deny even the most profligate culprit an opportunity of defending himself? However, it is needless to expostulate upon a question already determined. The fate of the city magistrates was decided before it became a subject of debate in this House, and the refusal to grant them the assistance of lawyers upon the very points of law, marks the despotism of government most strongly; but it is neither its majority within doors, nor its army without, that can avert the execration, or the vengeance of an animated people.

Mr. Serjeant *Glynn* :

Sir; the present object of our consideration is extremely important; it is a dispute between the people and their representatives, between the privileges of this House, and the established law of the land. I do not deny, that the law of parliament constitutes a part of the law of the land; but then, when the privilege of parliament is repugnant to the known *lex terræ*, to the obvious principles of the constitution, in that case I confidently decide for the supremacy of the latter, and insist, that the immemorial acquiescence of ages or the joint act of the three estates must be necessarily superior to the private resolution of any single branch of the legislative authority.

It is upon this principle, Sir, that the votes of this House are never put into competition with the writs of the crown. No court is bound to take notice of our votes; on the contrary, the judges are bound not to take notice of them, but to act in conformity to the laws; they are sworn to do justice without any attention whatever to the privy seal, or the great seal; and, consequently, if they are thus constitutionally placed above the commands of the head, they are placed above the resolutions of the lowest estate in parliament.

Sir, if parliamentary privilege were to

be once indulged with a superiority over the law, an Englishman would be as insecure in his liberty, as the slaves of the Mogul: because the votes of each House might often be inconsistent; and because the two Houses might differ in opinion as frequently hereafter, as they have heretofore differed upon great constitutional questions. In cases of such a kind what line of conduct would be left for the judge? The Lords might declare privilege extended to matters, where the Commons denied its existence; and the Commons on the other hand might assert, what was as peremptorily denied by the Lords. In a case of that kind let me again ask how the judge could possibly administer the law? Both opinions would be equally binding, and the principles of justice would be necessarily destroyed by a contradictory power that destroyed the principles of common understanding. This was the reasoning of my lord Somers and of all the patriots who effected the Revolution, and the inference is obvious, that the law should pay no regard to the resolutions of either House. For what purpose, Sir, are laws established to regulate the decisions of magistrates, if it is criminal to execute these laws? Every justice of peace, every alderman of London, and particularly the lord mayor, is occasionally a judge; and he is notoriously punishable, if, in the commitment of any offender, he deviates from the law of the land. He is besides guilty of perjury, if he does not act according to the spirit of his oath: now, Sir, admitting that magistrates had complaisance enough to be guilty of perjury, when you think proper to command them, who pray will enter into offices of magistracy, under the predicament at this moment establishing by the representatives of the people? Who will enter, when they are to be punished equally for executing or non-executing the laws; when the neglect of their duty exposes them to a prosecution from individuals, and the performance calls all the thunder of parliamentary indignation upon their heads?

Sir, it is ridiculous to say, that the magistrate must not meddle with your privileges, when the law, of which he is only the executive minister, takes no notice of them. If we are the only judges of our own privileges, how is the magistrate to know what they are? In this case to keep him from offending, we should abolish the laws at once, and make our own resolu-

tions the sole line of judicial rectitude. Yet, suppose, for argument sake, that the king, when his proclamation for apprehending Wheble and Thompson was disregarded by the city magistrates, had proceeded to the violent lengths which we are now proceeding, and had sent the magistrates to the Tower, is there a thinking man in England who would not have felt for the freedom of his country? Is there a thinking man in England who would not have deemed the measure a violent attack upon his liberty? If, then, such a measure taken by the crown, would be held highly injurious to the constitution, why should it not be held equally injurious when taken by this House? The prerogative of the crown is as sacred as our privileges, if we have a right to punish for a contempt of the one, the crown has a right to punish for a contempt of the other. In laying the whole nation, therefore, at our own mercy, we lay it at the mercy of the crown. In our own tyranny, we establish the tyranny of the throne, and while we claim a power of trampling upon Magna Charta, hold out a blessed example for imitation to our sovereign.

Sir; the discretionary powers of prerogative and privilege, were first granted by the people for purposes of public good, and become constitutionally annihilated in the moment of their perversion. To abuse is to destroy them, and nothing but necessity could make the punishment of contempts, even in courts of law, warrantable; contempts in court strike the immediate existence of justice: hence the courts of law are invested with a power of punishing them with instant severity, though making the offended party judge and executioner was manifestly repugnant to the spirit of our constitution: but the necessity which operates for an authority of this kind in the law courts, does not operate for lodging it with us. Our existence is not endangered by a contempt, nor the administration of justice rendered precarious by a delay of the punishment: no, Sir, the punishment gains weight by the delay; the laws become doubly tremendous when appealed to by a branch of the legislature, and we become doubly respectable in the eyes of our constituents, when our resentments are regulated by the acknowledged principles of legality.

Sir; it is urged with great plausibility, that without the power of imprisoning at discretion, all parliamentary privilege must necessarily be lost: but, in answer to this,

give me leave to observe, that the crown possesses no power of this kind, and yet there is no fear of any diminution in the royal prerogative; the greatest corporations in the kingdom claim no such jurisdiction, and yet their authority is never impeached: whenever they have a reasonable cause of complaint, the laws of their country are open to grant redress, and few are weak enough, or wicked enough, to expose themselves voluntarily to judicial prosecutions.

I am sensible, Sir, that great weight is laid upon the power of a House of Commons, because it is the grand inquest of the kingdom, yet here, the casuists for parliamentary omnipotence are as indefensible as in any other arguments; for the business of an inquest is to present, not to punish; to complain, not to decide; and we cease to be an inquest the moment we claim a right of judicial determination. Upon the whole, Sir, if the prerogative of the crown is not equal to the privileges of parliament, there is an end of our constitution, which makes it the head of the legislature; now, the crown possesses no power of discretionary imprisonment, and this House, in exercising an authority superior to the royal, destroys that equality of the three estates upon which our ancestors have founded the liberties of England.

Mr. Alderman Townshend:

Sir; I have attended with great patience to the arguments advanced in favour of the present motion for sending Mr. Oliver to the Tower, but they have roused my indignation, instead of convincing my judgment; and I fancy if something more persuasive than words had not been used, even to the friends of the measure proposed, they would have as little to boast of their political rectitude. If something more than words had not been used with these gentlemen, is it to be supposed, that they would have ever justified the violation of the city charters, or contended for the propriety of erasing the records judicially inserted in the mayor's book, by which they have not only impeded, but entirely prevented the operation of the laws? It is indeed said, Sir, that the House of Commons upon former occasions has exercised an equal degree of despotism; yet for my own part I cannot think the precedent of one tyranny, a sufficient vindication of another. No precedents should ever be mentioned as authorised, that are not evi-

dently good, evidently for the interest of the people. In Charles the 2nd's time the gentlemen pretend, that the venality of the then, is to sanctify the corruption of the present House of Commons. To the disgrace of our Journals, they contain many precedents highly injurious to the principles of freedom, highly injurious to the established constitution of the kingdom. In fact our Journals are so discordant, and so contradictory, that embrace which side you please of any question, precedents will not be wanting to support it. Men of principle, however, will not suppose, that the cobwebs of antiquity can possibly annihilate the criminality of a pernicious example: what is in its nature wrong, as a celebrated writer very properly observes, no words can palliate, no plea can alter. Let us, then, hear no more of precedents in defence of injustice. General warrants had innumerable precedents to plead, if the length of their existence was to be urged in support of their legality; yet we all know their fate; appearing contrary to law, they were wisely abolished, and the minister by whom they were last issued, was punished in an exemplary manner for his temerity.

Sir, the gentlemen who insist so much upon the sanctity of precedents, argue with a very bad grace in defence of prescriptive usage, when they themselves have concurred in abolishing many ancient customs, particularly parliamentary privilege in cases of debt, in cases of libels, and when they know that positive acts of parliament are repealed, if found repugnant to the welfare of the kingdom. "*Salus populi suprema lex est*," was long the motto of the Roman republic, and should be the grand principle of government in every sensible nation. Unhappily, however, we cannot say that it is the grand principle of our own, though few kingdoms, with pride I affirm it, can boast a greater share of public information.—Many, who support the motion now before the chair, are more assiduous to please the wantonness of female caprice, than to answer the expectations of their constituents: instead of gaining the esteem of their country, they are only solicitous to gratify the ambitious views of one aspiring woman; who, to the dishonour of the British name, is well known to direct the operations of our despicable ministers. Does any gentleman wish to know what woman I allude to, if he does, I will tell him; it is to the princess dowager of Wales. I am not

afraid to speak out, nor desirous of sacrificing my honest opinion at the altar of a ridiculous delicacy: this is not a time for courtly harangues, or polite palliations: the happiness of the state is at stake, and silence in such a situation would be treason. I therefore aver, that we have been governed ten years by a woman. It is not the sex, Sir, I object to, but the government: were we well ruled, the ruler would be an object of little signification. Common sense, therefore, points out an instant and a total reformation of public abuses. It is not the greatness of the criminal's rank, which should prevent you from punishing the criminality. But this is a period in which virtue alone is to undergo proscription; it is not a violation, but a defence of the laws, which is to rouse the resentment of this House; it is not an attack upon the constitution, but a solicitude for its safety, which is to excite your indignation. Sir, if this was not apparently the case, your table would never have been disgraced by the present motion: but remember, Sir, the flame which the imprisonment of the Seven Bishops spread through the nation in the reign of James the 2nd. Recollect this, Sir, and tremble for the consequences of imprisoning the city magistrates, merely on a charge of having done their duty conscientiously. The whole kingdom will inevitably consider them as martyrs in the great cause of liberty, and, believe me, the kingdom is not so dead to the sentiments of honour, as the panders of a corrupt administration may be inclined to imagine. The British lion still maintains all his native courage, and whether despotism shews its head under a Brunswick or a Stuart, in a court of Star Chamber, or a House of Commons, he will still consider it despotism; he will awake every true friend to the people with his roar, and never suffer your privileges to swallow up all the fundamentals of our freedom. The people will resist you, as they resisted the crown in Charles the 2d's time, and in queen Anne's, when royal proclamations were attempted to be made superior to positive acts of parliament, and make you sensible, fatally sensible, that nothing but the law of the land can possibly lay a claim to the obedience of a free-born Englishman.

Mr. Attorney General Thurlow:

Sir; it is not a little to be lamented, when gentlemen take upon them to talk about the violation of our laws, or the

perversion of our constitution, that they are so very indifferently qualified to reason upon the subject, and so apt to make the wantonness of their wishes the criterion of their conviction. Though this, Sir, is the first case of the kind that ever claimed the cognizance of the House, though it is the first time a magistrate of any corporation ever presumed to set his municipal authority in opposition to our orders, you hear a number of young gentlemen, wholly unacquainted with the laws, deciding *pe remptorily* on the question, and with a very peculiar modesty, deciding individually on a point where they expressly deny the power of decision in the whole representation of the British people.

For my own part, Sir, I supposed this House, and I know my supposition is constitutionally founded, to be superior in power to all charter jurisdictions, and to act upon principles common not only to itself, but to all other courts. Every court, Sir, has its peculiar regulation, and the law of parliament is the rule of our proceedings. These uninformed declaimers on the nature of our jurisprudence should recollect, that we have several laws in this country, besides common law. We have, for instance, the admiralty, the civil, and the ecclesiastical law; we have, besides, the law of parliament, which is as much a part of the constitution, as any other law, and would be acknowledged such, even by the learned serjeant who lately spoke, was he seated on any one of our benches. The upper House has a jurisdiction in common law, but all questions must come before it by appeal; it can agitate no judicial point originally, and on that account the judges attend to give their advice in matters of legal determination. The upper House has, moreover, its law of parliament, as well as this, but in that the judges never interfere. They leave it entirely to its only arbiters, and possibly did they ever meddle, they would have a speedy reason to repent of their temerity.

Having thus, Sir, proved the law of parliament to be as much a part of the constitution as any other law of the land, I now come to say, that Miller the printer was apprehended by this law, and that of consequence his commitment was perfectly legal. What could be more preposterous, or more daring in the city magistrates therefore, than to say a legal commitment was illegal, and to discharge by course of common law, a man appre-

hended by the course of parliamentary law? Lord Coke says, that it is not within the province even of the judges solemnly assembled in their judicial character upon the bench, to define the privileges of parliament. How, then, can it come within the province of an ignorant mayor, or a turbulent alderman? Is the chief magistrate of London to usurp a power which the king himself does not aspire to? or are the charters of the citizens to be put in competition with the united majesty of the British people? Sir, I should be astonished how we were able to restrain our indignation, if the folly of our reformers was not equal to their arrogance. Here, Sir, it is allowed by the law, that we shall be the only judges of our own privilege, yet a corporation-justice is daring enough to limit the line of our authority, is daring enough to pronounce this to be no breach of privilege, which we, the sole judicature of the offence, declare a very high one, and with an insolence unparalleled in the annals of this country, releases the delinquent whom we ordered to be taken up by our officer. At what other period would an outrage of this nature be tolerated? The breach of parliamentary privilege was the beginning of all those excesses which at length brought the unhappy Charles to the block. Yet it is now the glory of a London mayor to trample upon our rights, and we are even told by our own members, that nothing is so meritorious as this audacity.

Sir; it is urged by the popular advocates, that the lord mayor, in pursuing a contrary conduct, would have violated his official oath, and that we are in fact punishing him because he refused to be guilty of perjury. Give me leave however to observe, Sir, that the mayor was sworn to observe the laws of the land, as well as the laws of the city; in violating the privileges of parliament, therefore, he ran into the very crime he was so conscientiously studious to avoid; because these privileges, as I have repeatedly insisted, make a part of the *lex terræ*; and are so acknowledged by the courts at Westminster. On the other hand, Sir, I deny that he would have committed a perjury by submitting to the resolutions of this House, because this House was the only tribunal which could take cognizance of Miller's offence; his lordship, in determining, shewed his ignorance as much as his disregard of law; for the matter did not come regularly before him: he might have

decided with as much propriety upon a chancery suit as upon our privileges; to act legally he should have dismissed the complaint, and known that little charter-grants of a city, were not to be opposed against the general laws of the kingdom.

But admitting, Sir, that the mayor has all the merit popularity is pleased to give him, for acting in conformity to what he believed to be law; are we not to follow his example, and conduct ourselves by what we know to be so? Shall it be mentioned to the glory of an individual, that he maintained the supposed rights of a corporation; and shall it be said that this House is dishonoured in maintaining its confirmed privileges? Is not the generosity, is not the very pride of the House, alarmed by so degrading a competition? Have not the members of this House as conscientious a veneration for oaths as the mayor? Or are they afraid to punish his licentiousness, when he is not afraid to insult their authority? All that's man, all that's Briton, is firing in my bosom, while I ask these simple questions. Well may our enemies say, that we have sacrificed the dearest ties that bound us to our constituents, if we now suffer the whole body of the English Commons to be trod upon by the instrument of a despicable faction. Have we so long defended our privileges against the tyranny of kings, to fall at last before the turbulence of a seditious city magistrate? or has the constitution given us sufficient title to guard against the encroachments of the crown, and yet left us without means of chastising the encroachments of inferior ambition? The very word privilege means a power of dispensing with the laws; this dispensing power was placed in our hands, that temporary remedies might be applied to unexpected evils. Where could it be more safely trusted for public good, than with the people themselves? We are their delegates, and in chusing us they should be doubly circumspect, when they consider with what an ample jurisdiction they invest us. Whatever attacks the independency of this House attacks the constitution, and whether it proceeds from the throne, or the constituent, it is equally our duty to repel it; for these reasons, I am heartily for the commitment, and cannot but compliment your lenity in the mildness of his punishment.

Mr. Dunning :

Sir; the hon. and learned gen-

tleman who spoke last, has, in my opinion, misapprehended the ground of the debate: he concludes, because we have an authority to seize and commit in cases of treason, that we must necessarily have an equal authority in cases of less importance: but this reasoning is self-refutatory to the meanest apprehension; for the punishment of particular crimes is left to the established courts of law, and we never interpose but in times of particular exigence, where there is a conspiracy against the state, or some reasonable ground of general alarm for the nation. To quit the legislative for the judicial character, upon trivial occasions, and to check the operations of law by the exercise of privilege, must ultimately sap the very foundation of the laws, undermine the pillars of legal rectitude, and overturn the glorious fabric of the constitution.

Sir, the great advantage of a legal government consists in the general knowledge which the people have of those ordinances by which they are governed. On this account Cicero, and the wisest of the ancient statesmen, condemned the ostracism of the Athenians, and those wanton exertions of privilege among the Romans, which, like our bills of attainder, left him to be punished by laws, which were instituted subsequent to the particular crime of which he was accused.

Sir, the principle at present adopted by the House, operates, in my opinion, as a perpetual bill of attainder. The subject does an action which he conceives to be innocent, because it is not prohibited by any specified law; the House of Commons disapproves this action, they order the man to be seized, commit him indefinitely to prison, and when he applies for redress to the courts of law, the judges are deaf to his complaint, because he has been oppressed by the privilege of parliament.

I know, Sir, it is urged, that without a power of punishing every contempt which is offered to your authority, there must be a speedy termination of your weight, if not of your actual existence. Give me leave, however, to observe, that while your authority is constitutionally exerted, it will always be implicitly obeyed; while you consult the good of the people, the people will consult your honour; but when you once manifest a spirit of despotism, they will manifest a spirit of resistance: the English are to be governed, but never to be oppressed: they are, in the language

of the vulgar, to be led, but not driven; and they will always resist when they see a palpable attack upon the constitution.

As I speak, Sir, to support the cause of justice, and not to advance the views of any party whatever, I shall readily acknowledge, that the courts of law have acquired through necessity, a right of punishing contempts, because, without such an authority, there would be a total end of their jurisdiction. But even in the courts of law, I do not hesitate to pronounce the power contradictory to the principles of *Magna Charta*. The necessity, however, induces us to tolerate the invasion, for without such a toleration, every man would claim a privilege of obeying, or disobeying, the decision of our judges at his own discretion, and all, as the poet says, would consequently be "anarchy and uproar."

But, Sir, if punishing contempts in court, is a power which ought to be exercised with the nicest circumspection, and if nothing but the most indispensable necessity can thus properly make the benches of justice, judge and jurors in their own cause, how careful should we be, not to grant this power where the necessity does not exist, and where the exercise of it is as plainly repugnant to the letter of our laws, as to the spirit of our constitution. The hon. and learned member who spoke before me, says, that in England there are several kinds of law, and that when your messenger was apprehended by one law, he was discharged by another: this he insists to be apparently inequitable: but why will not gentlemen, when they talk about legal equity, tell us openly what it is? If we have privileges that must not be violated, in God's name let us tell the people what they are, that they may avoid the violation.

Sir; the House is, I own, in many cases the sole judge of its own privileges, but there are many others, in which if they come incidentally before a court, the judge must inevitably take them under his cognizance. Suppose, for instance, that the serjeant at arms, in executing your warrant upon the printers, had been killed, and that the homicides were afterwards tried for the fact; will any man say, Sir, that in such a case your privileges would not be cognizable before another jurisdiction? Will any man say, that the judge was not to enquire whether the warrant under which the serjeant acted was legal or illegal, or whether the homicide was a justifiable defence, or an absolute murder?

Surely no man, who wishes to retain the constitutional mode of trying by jury, will be hardy enough to assert any thing like this; and if nothing like this is to be asserted, what becomes of the fashionable doctrine, that the Commons upon all occasions are the only expounders of their own privileges?

Sir; our whole constitution is a political kind of chaos, and depends upon the preservation of opposing elements; the King has his prerogative—the Peers their jurisdiction—and we our privileges; we are equal in legislative importance, even to the two hereditary estates, but we are not superior; we are independent with respect to them, but not so with relation to the people; the people were the original spring from which the three streams of government proceeded, and must in fact be paramount to all. They will therefore naturally enquire how we, their representatives particularly, have executed our trust, and will as naturally execrate our names,

"If once we vilely turn that very power,

"Which we derive from popular esteem,

"To sap the bulwarks of the public freedom."

Sir; the people have already opposed us by their magistrates, and they will oppose us farther by their juries; though were we in fact as much respected as we are already despised; as much esteemed as we are universally detested, the establishment of tyranny in ourselves, who are appointed for no purpose but to repel it in others, would expose us to the abhorrence of every good Englishman. Let us, therefore, stop where we are; let us not justify oppression by oppression, nor forget our own posterity, if we are regardless of our country. Let even the abject principle of self, which actuates, I fear, too many of my auditors, for once operate in the cause of virtue. We have sons and we have daughters to leave behind us; they will have children, and these children will have their successive generations. Shackle them not, therefore, before they are born.

Sir; the best inheritance, which we can possibly bequeath our race, is freedom; in robbing our constituents of this inestimable blessing, we in fact take it away from our descendants, and make the creatures of their own hands the masters of their fortunes and their lives. It is a plausible argument, that the voice of the nation is only to be heard in this House; but plausibility does not necessarily imply justice, nor does this House constitute a real re-

presentative of the kingdom. The metropolis, for instance, which contains at least a sixth part of the people, has no more than four members; and many of the principal trading towns are wholly without a member: when this is recollected, Sir, and when it is moreover recollected, that the inadequacy of parliamentary representation is a subject of universal complaint, there is but a slender basis for asserting that our voice is the voice of the kingdom, and that as such it should be decisive in every deliberation.

I readily grant, Sir, that the sense of this House, whether agreeable or disagreeable to the sense of the people, is generally submitted to, and that the nation will endure much before it attempts to shake the load of oppression from its shoulders. The public is an unwieldy body; its operations are slow, and nothing can rouse it into action, but the most urgent call of necessity; yet, for this very reason, when it does move, its motion is a very serious circumstance; the more the subject is inclined to bear, the more we should be alarmed at his sensibility; when his patience is exhausted, we may conclude that his reasons for discontent are ample, and in proportion as he shews himself unwilling to murmur, in the same proportion we should shew our readiness to remove every source of his dissatisfaction.

Sir; the friends of administration, besides the fallacious mode of reasoning which I have here exposed, recur to another specious fallacy to countenance the oppression of government. We are told, that the various petitions presented to the throne for the dissolution of this parliament, are by no means to be regarded, because the majority of counties have not petitioned for this purpose. On the contrary, it is inferred that as the majority of counties have been silent, the complaints of those who have really talked of grievances must be considered only as the effusions of faction, fomented by the interested, and supported by the misled; that they are on the one hand excited by ambition, and on the other composed of ignorance, but on both repugnant to reason, and injurious to the real happiness of the kingdom. Superficial enquirers into the nature of public transactions, may, Sir, be deluded by a logic of this kind, yet it will have very little weight with those who have made a close examination into facts. The bulk of the people, Sir, is not to be estimated by the extent of miles, or the

multiplication of counties. The metropolis, as I have already observed, contains in itself a sixth of our inhabitants, and if we reckon the petitioners, by the more rational criterion of the land tax, we shall find that they exceed the supposed friends of the ministry in numbers, by so considerable a sum as 25,000*l.* a year.

Why, then, Sir, are we to imagine, that the language of the late petitions is not the language of our constituents at large? Are there no murmurs, no discontents in the silent counties? Or have our gracious rulers practised no arts, to keep their uneasiness from the ear of their sovereign? We may labour to deceive ourselves, Sir, but our labours to deceive the public will be ineffectual. The minister will not meet that complaisance without doors, which he is so certain of meeting within; the very motion before the House is a proof of our being generally abhorred. The magistrates of London would not dare to resist our resolutions, if the nation was not evidently warmed with their sentiments, and thoroughly persuaded, that the existence of their freedom depends upon a determined opposition to the unwarrantable exercise of our authority. Perhaps, Sir, it may be said, our privileges are the privileges of those we represent, and that the political importance of the elector must be diminished, if the importance of the elected undergoes the smallest diminution. Let me again exhort gentlemen not to deceive themselves. Whenever the interest of the representative and the represented are one, their views must be one also. At present, however, their interests are as contrary as their views, and nothing but the very soul of absurdity could possibly affirm, that our encroachment on the rights of the subject, was absolutely requisite for the maintenance of his necessary weight in the constitution.

Sir; gentlemen are exceedingly indignant at the supposed temerity of the two magistrates, now labouring under the displeasure of the House; and ask, with a tone of resentful surprise, if the corporation of London is to be independent of the Commons regularly assembled in parliament? Why not, Sir, if the law has made them so? If the law has indulged the citizens with particular immunities, why are these immunities to be invaded? We sit here for the professed purpose of guarding the laws, not for the professed purpose of trampling them under foot: we ourselves are the creatures, not the mas-

ters of the constitution : we have no existence but a legal one ; we can have no existence but a legal one, and consequently it is as weak as it is wicked in us to overleap the established bounds of legality.

Mr. Charles Fox :

Sir; notwithstanding what the hon. gentleman who spoke last has been pleased to urge relative to the divided views, and the divided interests of the Commons and the people, he has not been able to convince me, either that the authority of this House is not the best security of the national freedom, or that our welfare can possibly be separated from the welfare of the public.

Sir; the hon. gentleman is pleased to say, that the voice of this House is not the voice of the people, and he sets the language of clamour without doors in opposition to our deliberations, as if we were not particularly appointed by the constitution, the only revealers of the national mind, the only judges of what ought to be the sentiments of the kingdom. I say, Sir, what ought to be, because many laws are highly necessary for the public safety, which excite the discontent of the people. If we were never to pass a law, till it obtained the sanction of popular approbation, we should never have a settled revenue to support either the establishment of our domestic policy, or to defend ourselves against the invasion of a foreign enemy. You never see a tax instituted, Sir, without hearing loud impeachments of parliamentary integrity. The uninformed zealots, who seem animated with an enthusiastic love for their country, generally charge us with having sold them to the minister ; and we are accused of venality for imposing those burdens, which we know to be absolutely necessary, and to which we ourselves, if the House of Commons is supposed an assembly of the first property in the state, must always be the largest contributors.

Sir; it will possibly appear strange, that a representative of the people should not deem it more meritorious to comply with the wishes of his constituents, than to counteract them ; and it may possibly be urged, that it is his duty, upon all occasions, to act in conformity to those wishes, however repugnant they may be to the sense of his own conviction. Sir, I will not differ with the hon. gentleman about the idea he annexes to his term of 'the

[VOL. XVII.]

people;' I will, for argument sake, allow that nine tenths of the people are at this moment in opposition to government. But I shall at the same time insist, that we have higher obligations to justice, than to our constituents ; we are chosen the delegates of the British electors for salutary not for pernicious purposes ; to guard, not to invade the constitution : to keep the privileges of the very freemen we represent, as much within their proper limits, as to controul any unwarrantable exertion of the royal authority. We are bound to promote their true interests in preference to the dearest desires of their hearts, and the constitution makes us the sole arbiters of those interests, notwithstanding the imaginary infallibility of the people.

To shew, Sir, the propriety of this reasoning, let us suppose that the people, instead of this mixed monarchy, which we celebrate as equally the pride and envy of the universe, should instruct us, their representatives, to introduce a democratical form of government ; should we act as good subjects to our king, or as faithful guardians to our country, if we complied with so dangerous an advice ? We have sworn to maintain this constitution in its present form ; to maintain the privileges of parliament as a necessary part of that constitution, and neither to encroach upon the legal jurisdiction of the peers, nor the just prerogatives of the sovereign. Shall we, then, do what we are sensible is wrong, because the people desire it ? Shall we sacrifice our reason, our honour, and our conscience for fear of incurring the popular resentment, and while we are appointed to watch the Hesperian fruit of liberty with a dragon's eye, be ourselves the only slaves of the whole community ?

Perhaps the hon. gentleman will tell me, that nothing but the "soul of absurdity" could suspect the people of a design against their own happiness. Sir, I do not suspect the people of any such design, but I suspect their capacity to judge of their true happiness. I know they are generally credulous, and generally uninformed ; captivated by appearances, while they neglect the most important essentials, and always ridiculously ready to believe, that those men who have the greatest reason from their extensive property, to be anxious for the public safety, are always concerting measures for the oppression of their own posterity. Sir, if I misrepresent the people, whence spring those eternal terrors of being

[L]

ruined, in the midst of the most unbounded prosperity? Have not we tottered, if popular clamour must be credited, upon the verge of ruin, since the first moment of our existence as a nation. Indeed, at the Revolution, patriotism itself acknowledges we were saved; yet from that period let us only read the works of our greatest politicians, and we shall find ourselves utterly undone. Even our glorious Deliverer was scarcely seated upon the throne, when the grateful people, whose liberties he had restored, began to consider him as an enemy to the constitution. In every succeeding reign we were destroyed, and at this moment, while exulting in all the pride of a felicity never known to our ancestors, we are planted in the deepest abyss of destruction.

Let us look around, Sir, let us survey the monuments of our ruin, and then ask what credit is due to the representations of our political screech-owls? Observe the magnificence of our metropolis—the extent of our empire—the immensity of our commerce and the opulence of our people; Survey the unfortunate citizens of London, Sir, and you will find every shopkeeper of any consideration, with his elegant villa, and his variety of equipages. Consider only the present opposition of the city to the whole body of the British legislature, and then judge how it must be oppressed! To shew you farther the *ruined* state of the kingdom, let me remind you that our territories occupy *no more* than the largest, the most valuable space of any European dominion in the four quarters of the globe; that our trade is proportioned to this superiority of empire, and that our subjects from the burning regions of Indostan, to the chilling mountains of Canada, exceed the subjects of every other power in greatness of wealth, and certainty of freedom. These, Sir, are the proofs of our *declining* fortune; may our calamities of this kind hourly increase, though the people should still continue to murmur! and may we always remain the happiest nation under heaven, however offended our patriots may be, because we are not happier than is consistent with the lot of humanity!

From what I have advanced, Sir, with respect to our duty as representatives of the people, it naturally follows, that we are by no means to act against our own judgment merely to gratify the resentments of their ill-humour, or the whimsies of their caprice. In Charles the 1st's time the

unlimited indulgence of the popular wish, was the destruction of the constitution; and, if the present allegations of popularity deserve the least weight, they shew what incompetent judges the people are of the public prosperity. The last parliament, Sir, was as obnoxious to the people, as this, in which we are now sitting, they approved what it is fashionable to term an 'infamous' peace, and they expelled a profligate libeller of their lawful sovereign; yet with all this weight of delinquency upon their heads, reviled and execrated as they were by the people, look round, and see who the people have chosen in their room. If we except deaths and promotions, Sir, are not the former *traitors* to a man, again the representative body of the legislature, again trusted with the freedom of the subject, and again the express election of the people? When we see these things, Sir, we are immediately struck with this alternative, either that the people are not judges of their own welfare, or that they have sold themselves for an infamous price to their members. In either case, the conclusion proves the little regard which should be paid to their complaints against the sense of our conviction. If they are virtuous, they are not wise; and if they possess wisdom, they have no right to find fault, since every oppression they groan under, is the natural result of their own scandalous dishonesty.

It is urged, Sir, with great gravity, by many gentlemen in opposition, that the House of Commons, as the creatures of the people, have no right whatever to exercise an authority over their constituents. This position, Sir, breathes the spirit of freedom with a vengeance, for it lays the axe to the root of all subordination at once, and puts an entire end to the whole system of constitutional government.

No doctrine, Sir, was ever yet broached in this kingdom, either so dangerous, or so ridiculous, as that which seriously insists that the House of Commons, because elected, is without jurisdiction, and that the people, because the origin of all power, must therefore be exempt from all obedience. The people make the laws, as well as the legislators; but will any advocate of licentiousness presume to say, because they are the fountain of authority, that they are of consequence discharged from a submission to legal institutions? The law, Sir, is as much the creature of their formation as this House; yet surely

it will not be said, that they are to tread it under foot, or to launch out into the barbarisms of their natural state, after solemnly forming a compact of civil society.

The only point, therefore remaining to be discussed is, Whether the people at large, or this House, are the best judges of the public welfare? For my own part, Sir, I shall not hesitate to pronounce positively in favour of this House. What acquaintance have the people at large with the arcana of political rectitude, with the connections of kingdoms, the resources of national strength, the abilities of ministers, or even with their own dispositions? If we are to believe the very petitions which they have lately presented to the throne, they are unequal to those powers which the constitution has trusted to their hands. They have the power of electing their representatives; yet you see they constantly abuse this power, and appoint those as the guardians of their dearest rights, whom they accuse of conspiring against the interests of their country. For these reasons, Sir, I pay no regard whatever to the voice of the people: it is our duty to do what is proper, without considering what may be agreeable: their business is to chuse us; it is our business to act constitutionally, and to maintain the independency of parliament: whether it is attacked by the people or by the crown, is a matter of little consequence; it is the attack, not the quarter it proceeds from, which we are to punish; and if we are to be controuled in our necessary jurisdiction, can it signify much, whether faction intimidate us with a rabble; or the King surround us with his guards? If we are driven from the direct line of justice, by the threats of a mob, our existence is useless in the community. The minority within doors, need only assault us by their myrmidons without, to gain their ends upon every occasion. Blows will then carry what their arguments cannot effect, and the people will be their own agents, though they elect us to represent them in parliament. What must the consequence be? Universal anarchy, Sir. Therefore as we are chosen to defend order, I am for sending those magistrates to the Tower who have attempted to destroy it; I stand up for the constitution, not for the people; if the people attempt to invade the constitution, they are enemies to the nation. Being, therefore, Sir, convinced that we are to do justice, whether it is agreeable or disagreeable, I am for

maintaining the independency of parliament, and will not be a rebel to my king, to my country, or my own heart, for the loudest huzza of an inconsiderate multitude.

Colonel Barré:

Sir; since I had the honour, I should say the dishonour, of sitting in this House, I have been witness to many strange, many infamous transactions; but, since I could call myself a member of the British House of Commons, never was my indignation roused with such an abominable proposal, as that which now disgraces even this assembly. A representative of the first city in the empire, or perhaps in the world, is to be treated as a state criminal, for supporting the general rights of the nation, and the peculiar privileges of his fellow-citizens. It has been proved to a demonstration, that your claim of privilege was meant as a bulwark only against the encroachment of the crown, and not as a check upon your constituents. It has been clearly shewn that you have acted contrary to Magna Charta, and that the magistrates accused have adhered to the law of the land.

Nor is this all. You have been convicted of invading the peculiar franchises of the city, and of trampling on numerous statutes made in its favour—while the objects of your impotent malice have only acted according to the dictates of conscience, and the religion of their oath. You will punish them, because they would not, for the purposes of your tyranny, betray their trust, and be guilty of perjury. What can be your intention in such an attack upon all honour and virtue? Do you mean to bring all men to a level with yourselves, and to extirpate all honesty and independence? Perhaps you imagine that a vote will settle the whole controversy? Alas! you are not aware that the manner in which your vote is procured, remains a secret to no man. Listen; for, if you are not totally callous, if your consciences are not seared, I will speak daggers to your souls, and wake you to all the hells of guilty recollection. Guilt, as the poet justly observes, is the source of sorrow: trust me, therefore, your triumph shall not be a pleasing one. I will follow you with whips and stings, through every maze of your unexampled turpitude, and plant eternal thorns beneath the rose of ministerial approbation.

Answer me; Whence did this motion

take its rise? Where was the scheme concerted? Did it originate in this House? Is it the legitimate offspring of this assembly? No; it is the abortion of five wretched clerks, who, though a disgrace to this House, have the management, let me correct myself, the mis-management, of all national affairs. These pitiful drudges brought the Treasury into the scheme; the Treasury influenced the junto of Carlton-house; Carlton-house set all the administration in motion; and the administration gave life and vigour to the machines that compose the majority. Thus are you played off like puppets, for the entertainment of the magician that acts behind the curtain.

Do you not blush at such infamy? Do not your cheeks burn with conscious shame at being mere walking plants, perfect oxen in a stall, fed by the hand of your master, and forced to draw in his yoke? By heaven, I had rather not be, than drag such a heavy, such a galling, such a detestable chain. There are, indeed, those of whose commands I should be proud, because their service is perfect freedom. The instructions of your constituents, you should be always ready to obey. But you have inverted the maxim of the Gospel, and made the servant greater than his master. You, who are only deputies or factors, have usurped a power not only superior to that of your creators, but destructive of the very rights by which they exist as freemen, and by which you yourselves exist as representatives. In the gulf of your privileges you have swallowed up the birthright of the people, who are ultimately paramount to all the three branches of the legislature. Had you been as tenacious of your duty as of your interest, you would have first provided for the safety of the people's rights, and then entered into the discussion of your own privileges. It is the privilege of the people to be tried by the law of the land, and to see the course of justice free and uninterrupted. Both, you have flagrantly violated, and opened a door for anarchy and confusion. But where is the wonder that you act in this arbitrary manner, when you would not allow mention to be made of the traitorous member, who declared, in the face of day, that he hoped to see his Majesty as absolute and despotic as the king of Prussia; and that he had bought his constituents, and made of their instructions an use not fit to be named! Had you been true representatives, you

would have immediately dropped every other subject, and blushed to determine any national affair, till you had removed from among you such an abomination to all honour and honesty. But you love to protect such culprits, because of such is your kingdom composed; and by such you hope to enslave the people. Such are ready made instruments to your hand, and require, like Nero, no spur but their own profligacy, to tear open the maternal bowels of their country. Yet how can you imagine, that the people will tamely submit to injuries received from men of your stamp? How can you conceive that Britons will endure an act of tyranny, as alarming as any practised by the despot of France? Louis the Well-beloved erases the acts of his parliaments; and our beloved House of Commons erases the legal proceedings of our courts of record! The violence of Charles the 1st, when he entered this House in person, and seized the five members, was not a matter of such pernicious example. You have struck at the very root of all law and justice, and endeavoured, at one blow, with Caligula, to decollate the constitution.

The consequence is natural. After having assumed an arbitrary dominion over truth and justice, you issue orders, warrants, and proclamations, against every opponent, and send prisoners to your Bastille, all those who have the courage and virtue to defend the expiring freedom of their country. But it is in vain that you hope by fear and terror to extinguish every spark of the ancient fire of this isle. The more sacrifices, the more martyrs you make, the more numerous the sons of liberty will become. They will multiply like the hydra's head, and hurl vengeance on your devoted heads. Let others act as they will, while I have a tongue or an arm, they shall be free. And that I may not be a witness of this monstrous proceeding I will leave the House; nor do I doubt but every independent, every honest man, every friend to England, will follow me. These walls are unholy, they are baleful, they are deadly, while a prostitute majority holds the bolt of parliamentary omnipotence, and hurls its vengeance only upon the virtuous. To yourselves therefore I consign you. Enjoy your own pandemonium—

“When vice prevails, and impious men bear sway,

“The post of honour is a private station.”

Mr. Charles Turner then informed the

House, that notwithstanding the resolutions they had come to, he, as a magistrate, should have acted the same as Mr. Oliver had done; and therefore, if there was any crime in it, ought also to be sent to the Tower.

Sir *J. Griffin* moved for a slighter punishment, viz., by leaving out the words, "committed to the Tower of London," and inserting the words, "reprimanded by Mr. Speaker in his place," instead thereof. Upon which,

Sir *William Meredith* said:

Sir; I find myself under a great difficulty, either to agree to this amendment, or to dissent from it; for, by agreeing to a censure, I may seem to adopt an opinion of the worthy alderman's guilt, which I can have no right to entertain. Did I even think him guilty, I durst not condemn him unheard. As a judge, I am bound to think the man whom I try innocent, till he has been fairly heard, and till his guilt results out of conviction. It is speaking too well of this proceeding to say, that this magistrate was not allowed counsel. He was allowed counsel, so far as to let us see the faces of counsel at the bar; but clogged with a condition that gagged their mouths from speaking what was necessary for their client's defence. It is an aggravation of injustice, to commit it under a false colour and insidious affectation of justice. The hon. gentleman must therefore pardon me, if I cannot vote for his amendment as a measure of kindness to Mr. Oliver; for if you, Mr. Speaker, are ordered to reprimand that gentleman, we all know your ability to do it to some purpose: nor can human nature be exposed to a more humiliating state, or to sharper feelings, than by submitting to such a reprimand as you will give. But, in going to the Tower, there is nothing to afflict him; on the contrary, he will carry in his own bosom the blessings of a good conscience, and be followed by the general applause of his fellow-citizens: whilst his judges and prosecutors will be pursued by the curses of the people, scorned by those who hate, and pitied by those who think moderately of them.

But if there was no reason for this amendment, I should think, Sir, the feelings of gentlemen would incline them to adopt it, merely to get rid of a matter, of which we are all so sick and weary. I consent to it for the sake of peace, even

at the expence of justice. With this view to peace, I have opposed every part of this wretched business, in every stage. They who now differ, may live to applaud me for it.

I see that many gentlemen of the highest rank and character, some of whom, by their doubts, gave a sanction, and others who added vigour and impulse to this prosecution, are now withdrawn. Several gentlemen who uniformly opposed this measure, have turned their backs upon the House, with many bitter expressions of the indignation which they felt. With what temper and opinion I may ever return to this unpleasant seat, I know not; but I will not leave it, as long as there is a twig to catch at, by which I can hope to keep the peace of this unfortunate country.

Mr. Speaker, it is natural for men to complain of what they hear from the report of others; but it is what they see and feel that provokes them to action. Here, then, lies the difference betwixt commitment and reprimand. The people without doors will only hear the one—they will see the other; and every hour of the imprisonment will add fresh discontent to their minds, and raise some new spirit of commotion.

We have now sat many hours past midnight; day-light is advancing upon us: let not the sun rise upon our shame! But let us close this miserable scene under the cover of that darkness which suits with it, and under the shelter of our own walls.

Strongly as I think the public ought to know what passes here, I wish to God I could bind you, myself, the whole House, with every clerk, serjeant, messenger, &c. attendant, to secrecy on this occasion. But that would be impossible. Still, Sir, may a great deal of mischief be avoided, if we keep ourselves to ourselves; if we do not send our judgment to be executed abroad, to create riot, tumult, and sedition.

Most sincerely, therefore, do I call upon the noble lord who sits on the Treasury bench: he has neither my ill thoughts, nor my ill wishes; and, if his lordship is truly spoken of, he has never approved this business. Let him, then, permit me to conjure him, for his own honour, for the ease and dignity of his sovereign, and, above all, for his country's peace, to lay hold on the opportunity given by the worthy general, to close this scene of mischief here.

The main object of those who are charged with the cares of government, is peace. Great kings, and wise ministers, have thought it not beneath them to give up points of the greatest moment for the sake of peace. Ministers must govern accidents, not be governed by them. But when ministers themselves endanger public peace for trifles, and raise discord out of atoms, then is government itself in a state of anarchy.

The storm that now hangs over us was raised by government; and whatever consequences may follow, they who began, and who have countenanced this proceeding, are answerable to their king, their country, and their God.

The question being put, that the words, "committed to the Tower of London," stand part of the question. The House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Onslow	-	-	-	} 170
		Mr. Whately	-	-	-	
NOES	{	Mr. Pulteney	-	-	-	} 38
		Mr. Hussey	-	-	-	

So it was resolved in the affirmative; and the House adjourned at half past three on the morning of the 26th.*

March 27. The Lord Mayor came to the House: a great concourse of people attended him to the House, where they were very riotous. Lord North was insulted by them, and would probably have been a good deal hurt, but was saved by sir William Meredith. Mr. Charles Fox and others were also insulted.

The House being informed of a tumultuous crowd assembled in Palace Yard, and in the passages leading to the House, who had assaulted several of the members

* "About three o'clock in the morning the debates in the House of Commons ended, when Richard Oliver, esq. alderman and member of parliament for the city of London, was ordered to be sent to the Tower, but was indulged to lie at his own house in Fenchurch-street, where the Serjeant at Arms attended between the hours of seven and eight o'clock, and conducted him in a coach to the above prison. Lord Temple, and a great number of the nobility, and members of the House of Commons, visited Mr. Oliver in the Tower. A motion was made by Mr. Alderman Kirkman, in the court of common-council, that the expence of Mr. Alderman Oliver's table, during the time he remains prisoner in the Tower, be defrayed by the city, which was carried in the affirmative." *Gentleman's Magazine*.

in their coming to the House: several justices of the peace of Middlesex and Westminster attending; they were called in; and, at the bar, Mr. Speaker, by order of the House, acquainted them, that the House, having received information of the said riotous proceedings, did expect that they should go immediately and give the proper orders for preserving the peace, and dispersing the crowd who were assembled about the passages leading to the House; and that they should return, and give the House an account of what they had done. And then they withdrew.

And, after some time, the House being informed, that the said justices were again attending; they were called in; and, at the bar, acquainted the House, that they had endeavoured to put the orders of the House in execution; and had proposed to read the Riot Act, but were prevented; and were totally unable to do any thing further towards keeping the peace.

And the sheriffs of London and Middlesex, being members of this House, were requested to go themselves, and endeavour to disperse the said crowd. And they went accordingly.

On the motion, that the order of the day be read,

Mr. *William Burke* said, that no part of the business, from the complaint to the judgment, had been wisely or equitably conducted; and that he would therefore wish them a good night.

Sir *G. Savile* got up, and said, that indeed he was very ill, which might be a sufficient excuse for him not to stay; but he desired the House would not regard that as his only excuse: that the House not permitting the lord mayor to be heard by counsel, he looked on it as a prohibition of justice; and as he was not therefore sufficiently informed of the strength of the plea, he could not stay to give any judgment in the matter. He therefore quitted the House.

Mr. *Edmund Burke* staid a little longer. He spoke so low that he could scarcely be heard. His speech, as much as could be distinguished at some distance, was lamenting the miserable conduct of the House, in which hardly any thing prudent was left for them to do, and that they had chosen the most imprudent of all the methods in their power. He then retired. Mr. *Dowdeswell*, the *Cavendishes*, and many other minority gentlemen, did not attend this day.

The order of the day being read, for the attendance of Brass Crosby, esq. lord mayor of London, in his place: the said lord mayor attended accordingly;

The *Lord Mayor* said, that as he looked on his case as already prejudged, he should add nothing to what he had before said in his defence.

It was then resolved, "That Brass Crosby, esq., lord mayor of London, having discharged out of the custody of one of the messengers of this House J. Miller, (for whom the news-paper, intituled, "The London Evening Post, from Thursday, March 7, to Saturday, March 9, 1771," purports to be printed, and of which a complaint was made in the House of Commons, on the 12th instant, and who, for his contempt, in not obeying the order of this House, for his attendance on this House upon Thursday the 14th instant, was ordered to be taken into the custody of the Serjeant at Arms, or his deputy, attending this House, and who, by virtue of the Speaker's warrant issued under the said order, had been taken into the custody of the said messenger) and having signed a warrant against the said messenger, for having executed the said warrant of the Speaker, and having held the said messenger to bail for the same, is guilty of a breach of the privilege of this House."

Mr. *Welbore Ellis* then observed, that the crimes the lord mayor had been guilty of were in a degree higher than those of Mr. Oliver, and therefore ought to meet with at least as severe an imprisonment; but as my lord mayor was not in a good state of health, to shew the tender mercy of the House, he should only move "That Brass Crosby, esq., lord mayor of London, and a member of this House, be, for his said offence, committed to the custody of the Serjeant at Arms attending this House."

The *Lord Mayor* was heard in his place, and said, that understanding from the gentleman who made the motion, that the lenity of it was owing to an attention to his ill state of health, he desired to acquaint the House, that he was much better in his health, than when he was first ordered to attend the House in his place. That he had no favour to ask of the hon. gentleman who made the motion, nor of the House. That in justice to his hon. friend, whom the House had sent to the Tower on Monday last, he thought they should send him to bear him company; that he thought he had done right in doing what was laid to his charge, and on a similar occasion would do the same again.

Mr. *Ellis* on this moved an amendment to his motion, by leaving out "to the custody of the Serjeant at Arms," and inserting "to the Tower of London."

This was opposed by Mr. Phipps, Mr. Calcraft, Mr. Pulteney, sir C. Wray, col. Jennings, Mr. Seymour, and others; most of whom expressed their opinion, that the House ought, in its legislative or judicial capacity, to have a power to send for persons, and to compel their attendance; but that it was against law for either House of Parliament to make law by its declaration; that the order of the House, concerning the printing the debates, was made in bad times (1641), and therefore ought not to be regarded; and that a power of this nature was not necessary to the existence of the House. In the course of this debate,

Mr. *Richard Whitworth* addressed the House.* He began with lamenting the unfortunate situation, which the House of Commons was brought into by these ill-considered and ill-advised proceedings. He said, that it was the most important crisis which the House had ever arrived at; that it was a dangerous contention, the people struggling for the laws of the land and their liberties at large, and the representatives of that same people, and from whom they derive their whole authority, contending for that assumed power of uncontrollable, unlimited, indefinite privilege and jurisdiction; a monster, thank God! unknown to exist in this constitution.

This is the contention, continued he, this is that dangerous system of power that will forebode the dire destruction of this country; the Commons fighting on the one hand their privileges, and the people, the law of the land on the other. The House that is at war against itself can never stand. Picture this struggling scene of contention but as the prelude of a too serious tragedy, and then paint the horrors of a civil war at home, intermingled with a foreign contest. These proceedings must produce neither credit nor dignity to the House. To retreat, say the administration, is disgraceful; and it will be allowed by all moderate men, to hasten forward is destruction.

The lord mayor, continued he, appears here, not as a criminal surely in the law, but as the bold assertor of the liberties and rights of his fellow-citizens, claimed under the charter and law of the land, armed and

* From the Political Register.

entrenched in the defence of the law. I shall take the question upon the great basis of the rights of the people at large, which is trying the extent of your privilege against the laws of the land. This is a dangerous trial between the representative and the people, fraught with every dreadful system, tending (perhaps you may say) to the overthrow of the very House of Commons itself, and not leaving it even the shadow of authority. This contest has for ever by our ancestors been wisely avoided; but the present desperate set of ministers run headlong at destruction.

You claim privilege, because it is an unconfined, unlimited, unknown exercise of power; and assert, that it wants no law to confirm it, or to try it. Let me ask you, how you came to confirm and strengthen the greatest privilege you ever had, and founded upon the most antient usage of it; a privilege which no man ever doubted, none of the people ever contested; I say, to confirm that by act of parliament which you last year did by a saving clause to the person of the member; I mean, in the last Act for taking away the privilege of the servants of members for arrest of debt, and to allow all other suits and actions to be commenced against any member or his servants, "saving that nothing in that Act contained should extend to the person of a member, but that he should be protected from such arrest?" Why did the House give up this, if, as they say, it was a matter of privilege? Where was the necessity of confirming it by an act of parliament? Why not, if your privileges were lawful, claim it upon the ground of privilege alone, and refuse the assistance of legislative authority, as not wanting the confirmation of an act of parliament? For my own part, I am utterly against our having any privilege at all, but what is given us by the three estates, the legislative body, an authority from which we ought to derive our privilege alone, and which alone are sufficient to give it us. I hesitate not to say, that we are not a criminal court of judicature. There are other courts for these purposes; they are the courts of the people, appointed as it were for their tribunal.

It may be said, that the House of Commons cannot exist, and that it cannot go on with business, unless it can punish for contempt; or unless it has the first power here claimed, of sending for persons, papers, and records: you may perhaps say, it would be absurd to imagine we had a

power of sending for persons to carry on the business of the House, and no power to compel their attendance. To this latter I answer, the courts below might compel; but the whole matter of privilege I would wish to see confirmed upon the noble basis of an act of parliament. Why not apply to the legislative power, the King, Lords, and Commons, for power to send for persons, papers, and records? and whatever other power you want, put it into the Bill; they will readily give it you. As often as you want fresh powers, so often apply to the three estates. Whatever powers are consistent with the constitution, and necessary to construct and form a legal House of Commons, vested with proper authority, they will not refuse to give you. These powers will then be your true privileges; the people will then never contest against them; they will with pleasure obey you, vested with such lawful authority. Commons of England, give up your assumed privileges into the hands of those for whose good you hold them, and from whose hands you ought alone to have received them at first. I say, give them up boldly, and receive them back again stamped with the dye of triple authority. Commons, no more contend against yourselves; your privileges are undefined, unascertained, and unlimited.

Here Mr. Whitworth happened to turn from the chair, and addressed himself to the House, which is disorderly, and repeated a phrase of Latin, "*Misera est servitus ubi jus est aut vagum aut incognitum.*" Upon which the House and the Speaker cried out, Chair! Chair! He then addressed himself to the Chair, and said, in very good humour, that had he presumed to talk Latin to the Chair, he should have thought himself disorderly. This set the House in a laugh.

He then proceeded and said, that what the House had done with regard to erasing out the minute of the recognizance of William Witham, entered in the lord mayor's clerk's book, and the ordering an entry to be made therein that no further proceedings should be had or carried on relative to that prosecution, were two acts of the House, which, says he, I think are the most extraordinary I ever knew, viz. to stop the course of legal justice, and the proceeding in a court of law.

He continued, That what they had done was totally ineffectual to the purpose intended; for, instead of putting an end to the proceedings, resumed he, I do and

can assure the House, from good authority, that the recognizance will be returned into court; the magistrate is bound by his oath so to do; and if he should not do his duty, an information will lie against him in the court of King's-bench, and the prosecutor for the assault will have his action against him, if he does not return it. Then I would advise you to give, at least, a caution to your messenger William Witham. He will be taken up, brought before the court, and committed. Where is your authority then? It will be at the sessions or assizes, when perhaps the House will not be sitting. If he does not conform to law, he will be outlawed; you and your privilege will be outlawed; and the contempt will be thrown back upon us: and I dare say that court will also, in return, order the entry you made in the lord mayor's clerk's book, to be erased out, as the proceedings of this House. So, and in such kind, will the law return you like for like. This will be a fine contest! Where will be the dignity of your proceedings, and the honour of this House? They will both be in limbo. Then, Commons, exert your authority: go and keep up your privilege from being held in contempt. Make out a summons for Wheble, for Thompson, for Miller, and Evans; then see what force your warrant to apprehend will have: you will find as easily another magistrate to commit; and so *toties quoties* this will be the case. The law of the land will find, as the hydra does heads, fresh support; and, I trust in God, the people are strong enough, with the law of the land on their side, to withstand any arbitrary strides of privilege made into their rights.

As to the proclamation, there never was so absurd and unlawful an instrument; not even stating the crime, or any one requisite to make it in the least legal. For where (as in the privilege of the House of Commons) law is not, there can be no offence against law. Now I will consider the erasing of the record in the minute-book of the lord mayor, by order of the House, as an act of the most dangerous kind, and, as I said, totally ineffectual to their intended purpose; for the recognizance will still be returned by that worthy magistrate: he has acted according to his oath and his conscience; and I trust, that, as an "honest man's the noblest work of God," by doing that which, according to his judgment, is agreeable to law, he will always preserve that character. As

[VOL. XVII.]

to the defect of the warrant, I shall not dwell upon that, though J. Miller singly is not sufficiently descriptive of the person; so that another man is as liable to be taken up as J. Miller. Are these proceedings likely to put a stop to the printing of your debates, the offence complained of? No, they still continue to do that which you are offended at, and by such proceedings as these you will always provoke them to do it. The honourable gentleman who brought the House this occasion to discuss their privileges, formerly brought to your bar a milkman for pasting up against a post in the street the speech of Oliver Cromwell. I wish these proceedings may not produce you another Oliver Cromwell, a copy of the last.

An honourable and learned gentleman, the other night, asked how the magistrates would treat the tipstaff of the King's-bench? Would they commit him? I answer him, that a complaint of any person so arrested was never yet made; that when it shall be made, I dare say they will, as by their charter and the law of the land, they may now think themselves fully authorised. A blot is no blot till it is hit; and when it is so, it stains deep.

An hon. member on the bench opposite me asked, How, if you have no power to punish for contempt, are you to impeach a minister? I answer; by an address to the crown, who will order him, as a servant of the crown, to be brought to your bar. But if the hon. gentleman will bring the fact, I will take care to bring the form.

I have now done, and shall only express to the House my great concern for the continual distress that attends this country. It seems decreed by fate to be subject to nothing but distress and grief; and as I might have been disorderly in not turning myself to the Chair when I spoke a sentence of Latin, I will conclude and compliment the Chair with Greek:

Ο ποποι, η μεγα πινθη Αχααδα γαιαν ιναυι.

I therefore put in my hearty dissent to this question.

The House divided. The Yeas went forth.

Tellers.

YEAS	{	Lord Burghersh	-	-	}	202
		Mr. Gascoyne	-	-		
NOES	{	Colonel Jennings	-	-	}	39
		Mr. Whitworth	-	-		

So it was resolved in the affirmative.

It was then ordered, on the motion of Mr. Ellis, "That a Committee be ap-

[M]

pointed, to examine into the several facts and circumstances relative to the late obstructions to the execution of the orders of this House; and to consider what further proceedings may be requisite to enforce a due obedience thereto; and that they do report their proceedings, together with their opinion, from time to time, to the House;" for which a ballot was ordered on the following day.

March 28. Mr. *Charles Fox* complained to the House, that the mob in Palace Yard had insulted him, breaking the glasses of his chariot, and pelting him with oranges, stones, &c. He said this was owing to the manner in which they had been attempted to be dispersed the day before: the sheriffs, and gentlemen who went among them having used gentle methods of persuading them to disperse, telling them that what they did would hurt my lord mayor, and that it was his desire they should go away; and that they ought to have used compulsive methods, as it was evident that other means would only tempt them to return again on every other occasion; that this was verified by what had happened this day, he not only having been insulted, but even the King going to the House of Lords.

The Sheriffs, in their defence, acknowledged that they had used lenient methods to persuade the mob to disperse; but they had also taken other precautions, ordering an additional number of fifty or sixty constables, and sending to the city for further assistance. That they had also threatened the people with the laws. That on those endeavours they had in a great measure dispersed, as was apparent by the House proceeding to business.

Lord *North* said, he thought the sheriffs had acted properly in what they had done, and should have no objection in testifying it; but at present the House had another business before them. He therefore moved for the order of the day.

As the conduct of the sheriffs had in some measure been arraigned, it seemed necessary to many gentlemen, that they should receive the approbation of the House; most of those who spoke, even of the ministry, having given their testimony accordingly; as, if the affair dropped here, it would appear as if the House thought some censure necessary. General Conway, the Advocate of Scotland, and several of the ministry joined in this; but the other gentlemen in administration opposed

it, because it did not appear that the mob was effectually dispersed: that the sheriffs had done no more than their duty in attempting to disperse them; and that their manner of doing it was but a slight compliment to the House. On the question for the order of the day there were 75 against 31.

The order of the day was then read for the House to ballot for the Secret Committee.

Mr. *Dowdeswell* opposed it. He said, that not being in the House when the motion was made, he had lost an opportunity to say any thing against it, but now he was utterly against it: that he feared, by the methods taken in nominating this Committee, that some extraordinary step was to be taken by it, the introduction of some new measure, which at the late time of the session it was improper to bring on, many gentlemen being about to leave town. But no person joining in opposition, the House proceeded to the order of the day.

The House then proceeded to the balloting for the 21 Secret Committee. This was done by every member dropping into a glass urn, a list of 21 gentlemen. The following is a list of the persons chosen:

The Right Hon. Welbore Ellis	-	125
Mr. Solicitor General	-	125
Mr. Attorney General	-	123
Jeremiah Dyson	-	118
Rose Fuller	-	118
Right Hon. Sir Gilbert Elliot, bart.	-	117
Sir Henry Hoghton, bart.	-	114
Sir William Bagot, bart.	-	114
Right Hon. Hans Stanley	-	112
Sir Thomas Clavering, bart.	-	111
Robert Henry Ongley	-	111
Thomas De Grey	-	111
Right Hon. Lord John Cavendish	-	107
Rt. Hon. Lord G. Sackville Germain	-	107
The Hon. John Yorke	-	107
The Hon. Charles Marsham	-	106
The Lord Advocate of Scotland	-	105
Dr. William Burrell	-	104
John Buller of Exeter	-	102
Sir Roger Newdigate, bart.	-	101
Frederick Montagu	-	99

The House adjourned on account of the Easter holidays to Tuesday the 9th of April. Mr. Wilkes had been ordered to attend on Monday the 8th; but by thus adjourning over the day, that order was evaded.

Lord North opened his budget. In the course of his speech he observed, that our dispute with Spain had been concluded very much to our advantage and honour; that it had been disputed which nation should first disarm; and that, as Spain had been the aggressor, he thought it reasonable that she should pay the compliment. When this should be done, he said, it would remain to be considered, how we might disarm, so as to keep a respectable force on the one hand, and act consistently with the œconomy necessary to the establishment on the other. He observed, that we had then 51 ships of the line, 54 frigates in commission, besides 190 tenders and sloops in pay; and said, that in time of peace he thought it would be better to pay off some part of the public debt, that, upon a future emergency, they might be able to borrow more money, without the danger of making the load too heavy to be borne, than to expend any sums not absolutely necessary for repairs or other purposes. Upon this occasion he declared, that he had always thought the reduction of the land-tax to 3s. in the pound a bad measure; but said, that, in justice to the landed gentlemen, who had so readily concurred in the present increase of a shilling, he would promise to move for its being taken off the next year, if, before that time, there should be no war, and he should then be in power. He observed, that the annual revenue was five millions, with which, and a vote of credit, a war might be carried on one year without a loan; and, consequently, that, in time of peace, this sum would enable administration, annually, to pay off a considerable part of the debt. "Trade," said he, "flourishes in all parts of the kingdom; the American disputes are settled; and there is nothing to interrupt the peace and prosperity of the nation, but the discontents which a desperate faction is fomenting, by the basest falsehoods, and with the most iniquitous views." These, he said, would naturally subside: every day would shew, that they were ill-grounded; a little firmness in the ministry being all that was necessary, to give the good sense of the people time to discover, who were their friends, and who their enemies.

Messrs. Dowdeswell, Burke, Barré, and Cornwall, declaimed against him with great vehemence; and took their revenge, for his charge against them, by menaces and invective. They said, that, notwithstanding the glosses of the ministry, it was manifest

the peace would be short; and that the lottery was an iniquitous project to bribe the servants of the public to betray their trust, with the public money, as it would put 150,000*l.* into the pockets of the subscribers, whom the ministry had it in their power to select.

April 11. The debate was resumed; and Mr. Cornwall, after proving the gain to subscribers, and observing that the subscription was not to be public but private, or, in other words, that none were to be subscribers but those whom the ministry were desirous to corrupt, said, that he hoped the members of the House of Commons would be excluded, as the distribution of 150,000*l.* among them, without the restraint of a place which made a new election necessary, might produce consequences very dangerous to the public.

Lord North replied, that he would not exclude members of parliament from joining in the subscription; and that it was absurd, in the highest degree, to suppose that any member would sell his conscience or his country for a sum, which he might gain by subscribing to lottery-tickets.

Mr. Cornwall said, that, if the members of the House were to be admitted as subscribers, he would the next year call for an enquiry who they were that had availed themselves of the advantage, that such measures might be prevented for the future: "For," said he, "whatever flourish may be made about the integrity of the members of this House, or however inconsiderable the advantage of subscription to lottery-tickets may be represented, a minister, who has it in his power to make every year a lottery highly advantageous to the subscribers, and to give members of this House 500 tickets, can certainly bestow what is equivalent to a pension, held during pleasure, for the worst purposes, without possibility of detection."

Shoreham Voters incapacitating Bill.

April 11. The House proceeded upon the Bill for incapacitating the Shoreham voters. A diversity of opinions immediately arose. The preamble of the Bill set forth, that such men were members of a club, called 'The Christian Club.' This was alledged to be no specific charge against them; that at least the preamble should set forth the intentions and tendency of that club; that if this club had been instituted solely with a view

of selling the borough, it ought to be proved that they had done so; that this was a bill of pains and penalties, and therefore strict proof ought to be had of the crime, and that it was a crime of that nature that could be punished no where else: this party wished to put it off for two months.

Some were of opinion, that the charge in the preamble was sufficient, it being that of a conspiracy against the constitution, and of the most dangerous kind, as masked in such a manner as screened them from punishment at common law; that if nothing was done against them, it would be ruining the credit of the late election act, as it would appear to establish bribery by act of parliament; for if the committee by whom the cause was tried, only inform the House of the facts; and if the House did not punish on such information, returning officers and electors would see they had nothing to fear, and be more open in their future deeds.

Others were of opinion, that the preamble was defective, though the Bill ought to be gone on with, and therefore moved to proceed in it on Wednesday next. The House divided: the Yeas went forth.

Tellers.

YEAS	{	Alderman Townshend -	}	47
		Mr. Dempster - - - - -		
NOES	{	Mr. Charles Fox - - - - -	}	6
		Mr. Fitzpatrick - - - - -		

So it was resolved in the affirmative.

April 17. Counsel were heard against the Bill for incapacitating the Christian Club at Shoreham. It was alledged against the Bill, that bills of pains and penalties, being an innovation on the law of the land, and not including every person, ought never to be passed but on the most essential points, when the necessity was urgent, the danger great, or the cause of the utmost importance; that the charge in the preamble contained no more than a misdemeanor, which, if it could be proved, was punishable by the law as it now stands; that the House thought so when they addressed the King to prosecute these men, but that for want of evidence those prosecutions had been stopped; that the want of evidence was a bad reason for the House to proceed against them; that no bribery whatever had been proved on those men at the last election.

On the contrary, it was urged, that the nature of this society made it difficult to

get proper evidence against them; that there was a manifest conspiracy against the constitution by those men; that if the House did not proceed against them, it would throw a slur on Mr. Grenville's Election Bill, and make it almost impossible to punish for conspiracies of this nature, as they would say, 'we can only, on a petition, lose the election, but they can do nothing to us for our corruption; the committee cannot punish us:' that as the evidence did not bring it quite home to the persons accused, that part of the Bill should be dropped, and only the adding a district of the county to the borough should be attempted, which would be slight punishment on the borough, and set a proper example to deter others from such manifest corruption.—It was carried to commit the Bill.

April 19. The House went into a committee on the Shoreham Bill. They amended the Bill by leaving out the disqualifying the members of the Christian club, and giving all the freeholders of forty shillings a year within the rape or hundred of Bramber, in which Shoreham is situated, a right to vote.

April 24. The Shoreham Bill was moved to be re-committed. The reason given was, that the names of those who composed the Christian club were left out; that the preamble of the Bill asserted, 'that there was a wicked and corrupt society,' &c. now, if proof of that society, and their intentions, was made, it must have been brought home to those who compose the society; that therefore those men ought to be punished by disfranchisement, &c.

In opposition to this it was urged, that at the second reading the friends of the Bill had been so clear in their opinion, that the evidence was not sufficient, that they had declared their instructions to leave them out of the question; and only balance their votes by an admission of others: that in the House, this question had been signified to the counsel for the Shoreham men, who were given to understand, that they might go home about their business, which they had done: that it would be the highest injustice to put them again into the Bill, without giving them an opportunity to be heard against the Bill, which would now be impossible.

However the majority of votes, 56 to 14, determined they should be inserted.

April 25. The Shoreham Bill was reported.

Mr. *Dyson* opposed this in a long and forcible speech; he shewed how very repugnant it was to justice to condemn men unheard; cited the former precedents in cases of bills of pains and penalties; shewed that the accused had been opposed by counsel against their opening the whole of the evidence on which they might plead to: that on any alteration in the charge, fresh time was given to the accused to make his defence; in the present case the accused had been put off their guard, and sent home. He also pressed all the other arguments formerly used in this question, and was answered in the same manner.

Mr. *C. Fox* said, the Bill before the late alteration of bringing back the names of the Shoreham men was ridiculous: it was now wicked: that the opposition he should make to it in its present form, was therefore on the stronger ground.

Colonel *Jennings* also gave reasons against it, from the nature of a bill of pains and penalties.

The question being put, that the said Amendments be now read a second time; the House divided. The Noes went forth.

Tellers.

YEAS	{ Lord J. Cavendish	-	-	} 76
	{ Mr. Montagu	-	-	
NOES	{ Mr. Charles Fox	-	-	} 18
	{ Sir Cecil Wray	-	-	

So it was resolved in the affirmative. and the said Amendments were accordingly read a second time, and agreed to by the House. The Bill was afterwards passed.

East India Recruiting Bill.] April 12. The order of the day being read, for the House to resolve itself into a committee upon the Bill for the more effectually raising a Military Force, for the protection of the settlements and possessions of the East India Company,

General Burgoyne, col. Barré, Messrs. Burke, &c. opposed the Speaker's leaving the Chair, alleging that the Bill would impede the recruiting of the army, as men would naturally enlist with those who offered best terms: that it was unconstitutional, as giving an additional number of soldiers to the land service; by subjecting the publicans to the expence of quartering this corps; by bringing over a Ger-

man force to act here, contrary to the Act of Settlement; a number of Irish Catholics also, against the law of the land; that those forces were improper, especially the Germans, who were always ready to join any force that was uppermost; and that the beating up for Irish Catholics would raise a persecution immediately among those poor people.

The chief arguments in its favour were, the putting an end to the infamous system at present followed of locking-up houses, where men were decoyed and detained contrary to law; the necessity of recruiting the East India Company's forces in Bengal, from the great consequence that settlement is of to the nation; and that the faith of the nation was engaged to pass some Act to empower them to raise some men.—Carried to proceed by 73 to 40.

The House then resolved itself into a committee.

Mr. *Dempster* observed, that a Bill of an infinitely better mode than the present one, and not liable to its inconveniency, had been proposed last year; that he should wish to frame the present Bill in such a manner as to coincide with that, and therefore should call evidence to prove the impropriety of the present one.

General *Smith* was then called, who told the House, that the European army in Bengal, consisting of about 3,000 men, was, in 1769, when he left India, in very good discipline, considering the sort of men, who being chiefly raised about London, were the riff-raff of the people, chiefly boys under 17, or old men above 40 or 60 years old, and fitter at their arrival in India to fill the hospitals than the ranks. That the Seapoys were almost too good. That when the Company send out those recruits in their common numbers, namely, 100 in a ship, they lost perhaps one to five in their passage; but when crowded, perhaps to the number of 300 in one ship, they lost from 100 to 250 in their passage; that in general one-tenth of the European soldiers were in the hospitals from the inclemency of the climate, which was such, that for eight months in the year, no English soldier was allowed to stand centry from nine in the morning to five in the afternoon; that when the five years for which their men were enlisted was expired, they had their discharge, and were sent to Europe if they desired it, by the Company, but in general they enlisted

again; that German soldiers were, in his opinion, very improper to be sent there, as, being soldiers of fortune, they were always ready to desert to the enemy, especially if things did not bear a good aspect; that the English soldiers did not agree well with foreign ones; that in India it was necessary to have a body of men on whom they might depend to keep the Seapoys in order, which the Germans were not proper to do, as they were themselves not to be depended on; that the bad consequences of their desertion he had seen fatal effects from, as he had seen in the Vizir's army as good a train of artillery as he could have done at Woolwich, and 13 battalions of Seapoys nearly as well disciplined as ours, with as good firelocks as ours made in the country; that the Indian princes offered 2s. 6d. a day to European deserters, and therefore he thought it highly improper to send those men who would desert.

April 15. The House resolved itself into a committee on the East India Bill.

The first amendment proposed was to leave out the whole of the Bill, and introduce in its stead that of last year. The principal difference between the two was, that the last year's Bill only directed the recruiting, but the men to be without arms whilst they remained in Britain. This would have obviated a number of objections to the Bill of this year; but on a division was rejected, 71 to 29.

The next amendment proposed was, that the regiment should not be quartered in Britain; the principal reasons for this were, that as this regiment would have greater pay than the other forces, it would cause a jealousy between the services, and probably occasion mutiny, and petitions from the army to have their pay advanced: that it would be a tax on the publicans to billet these men, which would be a grievance and expence, for which they would not receive an adequate advantage.

The answer was, that care should be taken not to pay them, whilst in Britain, more than the foot soldiers had: that the islands were improper on many accounts for their reception (as Jersey, Guernsey, or the Isle of Man); first, as not capable of supplying them with provisions; secondly, as being out of the track of the East India ships, which would put them to great inconveniences by delaying their voyage out of the Channel; thirdly, as im-

proper to trust them in the islands so near the French coast, and where barracks must be built before they could be sent there. This amendment was therefore rejected.

The next great objection was, to raising them by beat of drum: as the East India Company could offer so much greater premiums for men than the army could, it would prevent the army recruiting service.

To this it was answered, that if you consent to raise the men, it does not signify whether by beat of drum, or any other instrument; that it was the additional advantages men would get in that service that would induce them to enlist in it, and not the instrument by which the men were called together: it was therefore carried in the affirmative.

It was then objected to the German Protestants, for the reasons general Smith had given. The friends to the Bill gave up that point, and the Germans were struck out.

The Irish Catholics, which were proposed out of the 1600 men to be 600, were next objected to by the friends of the Bill. The danger was urged of men who, in India, would have frequent occasions to desert; that Portuguese Catholic priests swarm in the Indies, who might lead them as they pleased; that of the men raised in England a great part of them would be Irish Catholics, and if added to the 600 proposed, the greatest part of the regiment would be so, which was by no means proper to trust to.

In answer it was said, that a great part of the foot regiments at present in Ireland consisted of Catholics; that they were good soldiers, had always in the late war behaved well, particularly at Quebec, when one of the regiments (lord Townshend's) was almost entirely Catholics: they were such good men in service, that general Wolfe charged at the head of them; that it would be good policy to raise men in the southern provinces of Ireland, as it would in some degree weaken the Catholic interest there. On the whole it was settled, that they should be raised in Great Britain, where his Majesty should direct.

The Bill then passed the Committee.

April 23. The third reading of the Bill was opposed for the reasons before given. It was also urged, that a squadron had sailed to the East Indies, with 2,500 men on board, who had orders to assist

the Company when wanted; that therefore there could be no immediate occasion to pass this Bill: that the Bill had grown worse in the committee by the exclusion of Germans, and Irish Catholics; by which, instead of 1000 Englishmen, as first proposed, they now would have the power to raise annually 1600. To this it was answered, that it was true they did not want men at present, but this Bill was to enable them to raise men for another year; that the evidence had proved how improper it was to send Germans or Catholics, and therefore they had been left out by the committee.

The House divided. The Noes went forth.

Tellers.

YEAS	Mr. Pulteney - - -	} 45
	Sir George Colebrooke - - -	
NOES	Colonel Burgoyne - - -	} 45
	Mr. Thomas Townshend, jun. - - -	

And the numbers being equal, Mr. Speaker said, that he could have no doubt in his mind how to decide it; that he thought the present most infamous methods of getting men ought to be got rid of by any means, and therefore decided in favour of the Bill. The Bill was then read a third time; and several members having come in, the question being put that the Bill do pass: the House divided. The Yeas went forth.

Tellers.

YEAS	The Earl of Catherlough - - -	} 50
	Mr. Sullivan - - -	
NOES	Sir George Osborn - - -	} 51
	Colonel Burgoyne - - -	

So it passed in the negative.

MOTION RESPECTING THE LOTTERY.]

April 23. Mr. Seymour observed, that in the lottery of 1769, 20,000 tickets had been disposed of to members of parliament, which sold for near 2*l.* premium each: that this gave an opportunity to administration to bribe the House at a small expence to government; and that as the evil was recent, it was necessary to nip it in its bud. He therefore moved, "That there be laid before this House, a list of the persons who have subscribed to the lottery of the present year, with the number of tickets for which each person has subscribed."

It was urged that the lists of 1769 and 1770, being now before the House, there

could be no reason why the present list should be refused, unless it was that the ministry did not choose the House should know the extent of the evil, which it was highly incumbent on parliament to enquire into.

Lord North opposed this, observing, that he did not think it any sort of bias on the mind of members of parliament to be suffered to adventure in a lottery where there might be a loss as well as a gain; that he made the best bargain he could for the public; and that he thought it a merit in any of the friends of administration, who should assist government in the execution of it, by subscribing for tickets; that the payments not being made, it was too soon to call for his list.

Col. Jennings observed, that the minister, by refusing the list, had used his friends ill; that if they had acted from public spirit in subscribing, their names ought not to be withheld from the public, that they might receive the approbation they deserved.

The House divided. The Yeas went forth.

Tellers.

YEAS	Mr. Pulteney - - -	} 59
	Mr. Seymour - - -	
NOES	Mr. Onslow - - -	} 93
	Mr. Robinson - - -	

So it passed in the negative.

Petition from W. Allen, the Father of the young Man murdered during the Riots in St. George's Fields. April 25. Mr. Serjeant Glynn produced a Petition from Mr. Allen, the father of him who was murdered in St. George's Fields, which he moved for leave to bring up. The petition set forth, "That his son being killed by three soldiers, he attempted to prosecute the murderers; that Maclean, one of them, had been at first fixed on as the person who fired the gun; that he had at first confessed his piece went off at half-cock; that he continued in this story to the trial; at which he altered his defence, and proved that by this manœuvre he had given time for the man who really had killed his son to get a furlough to go off. That the letter of lord Weymouth, some time before the accident, had excited the justices to employ soldiers, and the soldiers to proceed as they had done; that lord Barrington had in a letter thanked them in his Majesty's name for their good behaviour and alacrity on that occasion, and promised

them support; that they received not only the support of the crown lawyers at the trial, but a large gratuity in money for their alertness; that the soldier who had killed his son was kept in Scotland, though he had applied to the crown officers to assist him in justice; that he had also petitioned the King for justice, but no notice whatever was taken of his petition; that hearing it said the House of Commons had justified these measures, he had been advised to make his application to the House, praying such relief as the House thought proper."

Lord North opposed the petition being brought up. He observed, that two years ago a motion of the same nature had been made to enquire into the affair of St. George's Fields, and lord Barrington had justified himself fully in the opinion of every member, except about 39;* that there were no new allegations in the petition, except those fully known before; and therefore it would be needless to receive it, especially as the House could give no relief to Allen.

Sir G. Savile spoke with great energy. He urged the necessity of the House receiving a petition from one of their constituents, who thinking himself aggrieved by the ministers, had applied to the only power who could call them to account; that this petition came with greater propriety from a father, as he complained of the loss of a son, for which loss he was prevented by power from paying his last duty.

Mr. Burke spoke inimitably well. He expatiated much on the accusation in it against lord Barrington; commented on the particular part of his letter, and shewed the necessity of a parliamentary enquiry.

Lord Barrington defended himself against most part of the accusation; described the mobs which had existed for some time before the 10th of May, and the necessity of assisting the civil magistrate to quell them; that the imprisoning three of them for executing the orders of their officer, made it necessary to acquaint the rest, that they should be supported in their duty by administration, to prevent mutiny or disobedience from them, and especially at a time when hand bills had been circulated among them, to dissuade them from their duty. He shewed that eighteen of them had been wounded, a gratuity of 1*l.* 1*s.* each had been given to those men, and thirty guineas to Maclean,

who had lain six months in prison, as a recompence for his sufferings, on his acquittal, which would be considered in no other light than as a justice to them, which they highly merited. He denied that the soldier had any furlough to go from the regiment; concluding him innocent of murder (his piece having gone off by accident) he did not on that account take any steps to have him apprehended, being unwilling to expose him to a trial in those times of party rage.

The House divided. The Yeas went forth.

Tellers.

YEAS	{	Sir William Meredith	- }	33
		Mr. Ald. Townsend		
NOES	{	Mr. Stanley	- - - }	158
		Mr. Bradshaw		

So it passed in the negative.

Debate on Mr. Sawbridge's Motion for shortening the Duration of Parliaments.]*

Alderman Sawbridge rose and said:

Mr. Speaker; I have long waited in hopes of seeing a more able person undertake to move the question, which I am now going to propose; but, finding myself disappointed, I am determined to do all the justice in my power to so important a subject. And, not to detain you with a tedious exordium, the subject is the Duration of Parliament, of which the people universally complain. Long parliaments were always deemed innovations of the constitution, and, notwithstanding the preamble of the Septennial Act, it was thought a heavy grievance by the nation. Nor is this circumstance wonderful. Frequent, or annual parliaments, were declared fundamental in the reigns of Edward the 3rd, and Charles the 2nd; and by the Bill of Rights, which, one would have thought, no parliament had a right to reverse, any more than Magna Charta, they are not to be discontinued above three years. Formerly this precaution was extremely necessary; because the standing revenue of the crown enabled it to manage the government without their assistance; and if they never met, grievances would never be redressed. The crown, depending on the annual grants of parliament, is ready enough to call us together, and, instead of dissolving us at the end of the year, would wish to see us as-

* See vol. 16, p. 602.

* From the Political Register.

sembled for twenty years. Hence the complaints of the people run now in a quite different channel. They do not, as formerly, exclaim that parliaments are not held, but that they are held too long. And why do they exclaim? Because they find that parliaments become more and more expensive the more their duration is lengthened. The reason is evident. As matters now stand, a seat in parliament may be considered as an annuity determinable at the end of a certain number of years. Now a grant determinable in three years is not so valuable as the same extended to seven. Therefore, by a parity of reasoning, a seat for seven years is preferable to a seat for three, in the proportion of seven to three; and septennial parliaments must in expence to the people bear the same ratio to triennial parliaments. It was imagined that the act against bribery and corruption would render the constituents upright and honest in their choice. But some late examples shew that this notion was ill-founded, or at least that it will not hold in all cases. Since then neither duty, nor the solemnities of religion, will prevent corruption in the constituents, how can we expect a higher strain of virtue in the representatives, who are only bound by the former of these ties? It is a melancholy, but true position, that the elected are at least as corrupt as the electors. With the former the evil begins. ‘*Hinc mihi prima mala labes.*’ What is the remedy? Short parliaments.

Sir, the ostensible reason for passing the Septennial Bill was the danger, to which a triennial parliament might expose the Hanoverian succession. The excuse is not very honourable for the reigning family. It is no feather in its cap that it was supported by a sacrifice of the ancient constitution. But let us suppose a thing not very probable; let us suppose that the people were so perverse as to render this measure necessary for their good; yet still the Septennial Act ought to be repealed, because that reason no longer exists. The people throughout the whole empire are sufficiently attached to the House of Hanover. If they were not, I am sure some late transactions would have been attended with dreadful consequences. Happily for us all their love to the sovereign exceeded their hatred to his ministers; and we are still in a state of tranquillity. It is our business, by taking every just precaution, to secure the conti-

nuance of so much felicity. But how is this to be effected? By undoing a desperate expedient, to which our ancestors had recourse in the precipitation of fear, and which, if not timely remedied, may prove destructive to the object that it was intended to secure.

I have shewn that the people have a right to frequent new parliaments by ancient usage; and that this usage has been confirmed by several laws, progressively enacted, as occasion required. Till the reign of Henry the 8th, parliaments were annual, and never more than triennial. In order to satisfy his lust and arbitrary will, this brutal tyrant trampled on the laws of God and man, and introduced the practice of long parliaments, as he knew they would always prove subservient to his passions. Charles the 1st neglected to call frequent parliaments, and this wrought up the people to such a degree of fury, that they saw without jealousy the Commons assume an independent authority, which subverted the constitution, and brought the king to a tragical end. Charles the 2nd called a parliament, which, like a body of mercenaries, he kept in pay, till the source of corruption being dried up, determined them to turn against him, and to court their constituents: an act of treachery, which produced their dissolution. Human nature is so frail, or so corrupt, that obligations, unless they are frequently renewed, lose their force. Hence in the course of seven years representatives forget their constituents: and long parliaments naturally become independent of the people. What is the consequence? They become dependent on the crown, whose influencing power is by the vast increase of places become almost irresistible. I own, indeed, that there is some provision made against known placemen. But where is there any security against secret placemen and pensioners, against the reptiles who creep up the back-stairs, and come down with a bag of guineas ready to burst? In these cases, the laws are by no means effectual, and therefore the people have no other remedy but a new election.

Nor is this the only advantage of short parliaments. Long parliaments are a hardship upon those gentlemen, who ought in reason to take their turn as representatives, as well as upon those, whose fortunes may not be equal to the expence of seven years, but might be equal to that of three or one; and who, without any selfish

views, might be inclined to carry on a plan of public utility. Frequent parliaments will give us weight abroad, as the sense of the people will thus be infinitely better known than it can be according to the present scheme, when many suspect our determinations to be diametrically opposite to the sentiments of the whole empire. But long parliaments will give a minister an opportunity of feeling their pulses, and of wheedling them with their prescriptions. He will find out the proper pills, or baits, which they are ready to swallow, whether they be places, or pensions, or bribes, or titles, or strings. Hence they grow more and more corrupt, the farther they run from their source.

It is idle to say that triennial will prove more expensive than septennial. From whence did bribery spring? Not from country gentlemen. They are sure of being chosen without any such scandalous practice. This evil sprung from ministers, who dare not trust the natural representation of the people, and therefore thrust into parliament their vile creatures and dependants. Country gentlemen, having no sinister views, make but weak struggles, especially against direct bribery; and the distance of a fresh struggle is so great, that they grow cool and faint, and at last despair of doing any good; and despair produces indolence, a fit disposition for slavery. Ministers know this lethargy to be their harvest, and will not by frequent elections wake the spirit of liberty, which is only to be kept alive by constant action. Constant action will alone raise that zeal and indignation, which will overpower the undue influence, by which ministerial dependants, unknown to the electors, are enabled to supplant men of character and fortune in their neighbourhood. Hence a corrupt familiarity subsists between the minister and boroughs; he keeps a register of them in his pocket; he sends down his treasury mandates, and procures spurious representatives.

Because I contend for the revival of this part of our ancient constitution, you must not imagine that I mean to re-establish the whole. No, Sir; we ought to select what is good, and reject what is bad. The question is not about the general nature of our constitution, but about this particular point, whether the ancient manner of electing representatives is not preferable to the modern. And from the very nature of parliaments nothing can be more evident: for he that may be thought a

proper representative this year may not be so the next; and therefore a new choice is necessary.

It is ridiculous to say that prorogations are equivalent to annual dissolutions, and every session tantamount to a new parliament. Prorogations are of late invention, and flow from a corrupt source. Nor does the suspension of parliament differ from its long continuance in its consequences to the people, of whose complaints and grievances representatives may thus become regardless, and be themselves the greatest grievance. To say that parliaments ought to be septennial, in order to prevent the frequent return of riots at elections, is very absurd; because, if this position was just, we ought for the same reason to render them perpetual; and then we should have no riots at all at elections. And the same arguments will hold, if you pretend that they are necessary for supporting our credit among foreigners.

Nor will a good king, or good ministry, be injured by short parliaments. Triennial, or even annual parliaments, will be as ready as septennial to support good measures; and if a triennial or annual parliament trespass, the people will have it sooner in their power to procure justice. It matters little whether this plan would produce many changes in administration. A good parliament will always make good ministers. His Majesty's government could never be distressed, if he would have his government approved by the people, and if he would not, he would certainly be a very unfit person to govern.

To say that the people cannot be trusted, is to say that they cannot manage their own concerns. To refuse short parliaments may create, but can never prevent, discontents. Before septennial parliaments existed, did the canvassing begin two or three years before the election? No, for it is natural to contend more eagerly for a septennial than for a triennial post of honour or profit. Then those who had no natural interest, saw no sufficient temptation to employ bribery. When bribery was not used, every elector voted according to his natural bias and inclination; and now, that bribes have actually taken place, whoever buys, must come up to the elector's price, which will be proportioned to his honour, circumstances, and natural bias. A hundred or a thousand pounds would purchase him who would spurn at half of that sum. In this light let us examine triennial and septennial

nial parliaments. Suppose that a place-man or merchant of London, the postage of whose letters amounts to 500*l.* per annum, finds that it will cost him 3,000*l.* to overpower the natural interest of a country gentleman; for three years he would decline the expence, and not for seven; and he that will buy will sell: he that comes in by corruption, will seldom walk out with clean hands.

Let it not be imagined, that the voices of electors are sold by the duration of parliament. A man will not in triennial parliaments sell for 50*l.* what in septennial he would not give under a hundred. Few think of futurity; the present temptation has the only weight; as they cannot be sure of another, and fifty in hand, with the uncertain hope of fifty more in prospect, is not surely so great a temptation as a hundred down upon the nail. Natural interest and honour are the opponents, with which corrupters have to contend; and a small bribe is never so powerful as a great one. Some may yield to a small one; but the greater it is, the more it will yield. In septennial parliaments a man may afford more; more will therefore be corrupted. Nor is this all. More may depend upon being corrupted; and the greater the dependance, the more general the practice. The only method of prevention is to render the practice impossible; there is no possibility of corrupting, but by coming up to men's price; and this can only be done by rendering elections so frequent as to exhaust any corrupter.

Were elections annual, the annual savings of a pensioner would not buy the interest of country gentlemen, and the honesty of electors. Now it is well known that country gentlemen are the best support of the constitution, as they know the wants and grievances of their constituents. What then is more desirable than triennial parliaments, which will necessarily bring them into the House? Entertainments, however extravagant, will never over-balance their natural interest. Absolute bribery, and bribery of a high nature, is necessary. All those, therefore, who would have their posterity sit in parliament by natural interest, must vote for this motion. If this be not done, they will be overpowered with their own money. The Commons formerly refused subsidies, till they had consulted their constituents. What more proper for this laudable purpose, than short parliaments, composed of

country gentlemen? The crown seldom gives for a long term what it can give for a short space of time: we should imitate the example. For these and various other reasons which will occur to every man, I move, "That leave be given to bring in a Bill for shortening the Duration of Parliaments."

Messrs. T. Townsend, Dempster, Turner, Barré, and others supported this measure. They frequently called on administration to shew any reasons why such a Bill should not be brought in: but, to the amazement of most members, not one word was uttered by administration; the most contemptuous silence being observed. Mr. Cavendish (though believed to be a friend to the question) opposed it as improper, on account of the near conclusion of the session; and was by the Speaker appointed a teller against the question.

The House divided. The Yeas went forth.

Tellers.

YEAS	{	Alderman Sawbridge -	}	54
		Alderman Townsend -		
NOES	{	Mr. Onslow - - -	}	105
		Mr. Cavendish - - -		

So it passed in the negative.

Debate on the Lottery Bill.] The House having resolved itself into a Committee on the Lottery Bill,

Mr. Cornwall said:

Sir; there are various ways of sapping the independency of this House, but none of them is so dangerous as the practice of giving secret bribes and pensions. When a man accepts of a place, the constitution has left the people a remedy, if they doubt his integrity: as he must be re-elected, they may reject him, and pitch upon another, in whose independence they confide. But where is their resource against private bargains with the minister? I am far from thinking that the invention of man can make sufficient provisions against this evil; much of it will remain, when we have taken every possible precaution: but the impossibility of totally eradicating a consuming plague is no argument against using every rational method to stop its progress. When in a body, whose habit is known to be bad, a distemper breaks out visibly to the eye, the medical tribe apply topics, when they despair of correcting the whole habit, and effecting a radical cure. Let us imitate

their example. Though we cannot entirely annihilate the practice of corruption, let us check its ravages where it bursts out with the greatest violence. Though we cannot trace the progress of the bank bills issued out of the Treasury, for the purpose of securing a majority, we may certainly trace lottery tickets. The bank bills come before us under the head of secret service money, and cannot therefore be fixed on any individuals; but lottery tickets may be found in the subscription books, under the names of the respective members who were so obliging as thus to contribute to the support of government.

That lotteries are engines of bribery in the hands of the ministry, is a matter now so well known, that it would be as ridiculous to attempt to prove as to deny it. Daily experience demonstrates that they are viewed in that light by the ministers themselves: whence else is it that they do not leave the subscription open? Did they not mean to oblige their friends by a lucrative bargain, the public in general would be equally favoured. Last year, indeed, the present minister, willing to lay in a stock of popularity, of which he probably foresaw the future necessity, took this step. What is the reason that he has now deviated from so reasonable a plan? Has he turned his back upon the public, and thrown himself into the arms of a majority of this House! He has reason: the public has turned its back upon him, and it is well if the majority will always be able to afford him protection. When lord Bute was at the head of the Treasury, the same arts were used: upon a loan of three millions and a half, the subscribers, who were all the minister's friends and confidants, gained in a few days, a clear profit of 150,000*l.* the new stock having risen more than ten per cent. above par. Who, that knew this and other circumstances of the like nature, was surprized that this House approved the peace of Versailles? That act cost the nation, perhaps, half a million sterling. The decision of the Middlesex election did not prove quite so expensive, if we confine our view only to the lotteries, though, in that respect, it cost us several hundred thousand pounds. In 1769, 120,000*l.* were shared among the minister's friends, and, when this course was not taken, the sinking fund suffered, and other channels of secret service money were opened. This year the minister follows the steps of his predecessors; he divides among his dependants as many tickets as

they want, and upon each they gain 2*l.* Suppose, then, a member to have 200 tickets, he actually receives a bribe of 400*l.* Will such a sum have no influence upon his vote? Were this so, we should not always see subscribers follow the minister in every ministerial question; they would sometimes take the liberty of thinking for themselves, and dividing with the opposition. I am certainly informed that 50 members of this House have subscribed for 20,000*l.* Suppose the shares to be equal, each will have 500 tickets, or 1,000*l.* neat profit. Here, then, are 50 votes secured in all perilous conjunctures; for these gentlemen, in hopes of the like favour next year, will be cautious how they offend the minister, who has it in his power, at any time, to expose them for their past conduct. Will any man say that the approbation of the convention did not proceed from these principles? If any person should have so much effrontery, who will believe him?

Matters being confessedly on this footing, I think that the list of the members, who are subscribers to the present lottery, was unjustly withheld, because the people have certainly a right to be informed who are the men in whom they ought, or ought not, to place a confidence. The minister says, that such a step will check their present ardour in subscribing, and supporting government. This objection is the strongest reason imaginable for producing the list; for why all this ardour, and all this delicacy, were there not something too lucrative and too iniquitous in the traffic? I am satisfied that the government will not want support, though no member were to subscribe; the monied interest, the public in general, would be ready enough to step forward upon less advantageous conditions. I am convinced that this modern practice is extremely dangerous to the purity and independence of this House: I therefore move for leave to propose a clause, by which no member shall be allowed to subscribe for more than twenty tickets; a number sufficient for any gentleman, who does not want to make a scandalous traffic of his seat.

The reasons urged against the motion were, that the clause would be in a great measure impracticable, from the various means to elude it; that it would be a breach of parliamentary faith to those who had subscribed to the exigencies of government, in altering the bargain which had

been agreed to in the committee of supply : that it was improper as yet to produce the list of subscribers, as it might hurt the monopoly of tickets, which alone raised their value : that the number of tickets amongst members of parliament, was by no means great enough to influence their votes.— On a division, the motion was rejected by 31 against 11.

Divorce Bill.] April 29. The order of the day was read for the second reading of the Bill “to prevent any Bill from being brought into parliament, for the dissolution of any marriage, for the cause of adultery, unless a clause or particular words be inserted, to prevent the person against whom the adultery has been proved, from marrying or contracting matrimony with the person with whom he or she shall be proved to have carried on such criminal intercourse ; and to declare the issue of such marriage incapable of inheriting.”

The arguments in favour of the Bill were, that this Bill would in some degree check the frequent adulteries, as no lady could rely on the promises of a lover to marry her in case of a divorce : that it would put a lady on her guard against a false friend, who, under the cloak of friendship, might insinuate himself into the family, and taking part in the quarrels of man and wife, take advantage of little opportunities to prevail over the lady's virtue : that the facility with which divorces were now obtained, made it to be feared, that forgiving people would on false suggestions, and bare proofs, apply for them, when there was no other cause but dislike in the parties, and that, in some measure, this would throw a damp on such applications.

Mr. Burke did in a very ingenious manner, urge several motives for passing the Bill. Lords Beauchamp and Strange, and Mr. C. Fox, opposed the Bill. It was urged, that this would by no means stop the frequency of adulteries, as the prospect of a future marriage was too distant a temptation to the commitment of it, the present passions being evidently the cause : that it was levelled against the ladies, and would leave those who were so unfortunate as to be seduced in the worst situation possible, in so bad a one, that declaring she should not marry the person she had sinned with, it must either follow, that she would cohabit with him, to the scandal of society, or else must be debarred society, and be deemed improper to marry at all,

as none else would probably marry her : that the principle of the Bill, if extended, would be of the utmost detriment to population, as few marriages were contracted among the poor people but by the man to the girl he had debauched : that the Bill was also ridiculous in itself, since it bound the legislature to a rule, which every subsequent act of divorce might repeal, or confirm, as parliament pleased, and which rule might be followed by the insertion of this clause, without a formal act of parliament.

The House divided. The Noes went forth.

Tellers.

YEAS { Mr. Poulett - - - } 63
 { Mr. Mackworth - - - }

NOES { Lord Beauchamp - - - } 56
 { Mr. Charles Fox - - - }

So it was resolved in the affirmative.

April 30. The Divorce Bill was proposed to be committed. This was opposed on the same grounds as before, and supported with the same arguments. Lord Strange said, the only true system to prevent a vice of this nature was to reform the manners of the women : but whilst the Coterie, Cornelys's, Almack's, and other public places of rendezvous for company, were so much encouraged, it would be impossible to have any reformation. Mr. Wedderburn opposed the Bill on substantial grounds ; shewed the almost impracticability of executing a law of this nature ; that it would operate as a prohibition for future laws of divorce, as the name of the adulterer could not always be come at.

On the motion, That the Speaker leave the chair ; the House divided. The Noes went forth.

Tellers.

YEAS { Mr. Cooper - - - } 60
 { Mr. Mackworth - - - }

NOES { Lord Strange - - - } 80
 { Lord Beauchamp - - - }

So it passed in the negative, and the Bill was consequently lost.

REPORT OF THE COMMITTEE OF THE HOUSE OF COMMONS RELATIVE TO THE LATE OBSTRUCTIONS TO THE EXECUTION OF THE ORDERS OF THE HOUSE.] April 30. Mr. Ellis reported from the Committee, appointed to examine into the several Facts and Circumstances relative to the late Obstructions to the Execution of the Orders of this House, and to con-

sider what further Proceedings may be requisite to enforce a due obedience thereto; and to report their Proceedings, together with their opinion, from time to time, to the House; That the Committee had examined the matter to them referred; and had directed him to report the same, as it appeared to them, to the House; and he read the Report in his place; and afterward delivered it in at the Clerk's table: where the same was read, as follows:

A REPORT from the Committee appointed to examine into the several Facts and Circumstances relative to the late Obstructions to the Execution of the Orders of this House. April 30, 1771.

The Committee appointed to examine into the several Facts and Circumstances relative to the late Obstructions to the Execution of the Orders of this House, and to consider what further Proceedings may be requisite to enforce a due Obedience thereto, and to report their Proceedings, together with their Opinion, from time to time, to the House, have in obedience to the order of the House, begun by examining into the Facts and Circumstances relating to the late Obstructions to the Orders of the House; and, in order thereto called before them,

William Whittam, one of the messengers attending this House; who said, "That he had had no other warrant but that for taking J. Miller into custody, on the 15th of March 1771: it was directed to Mr. Bonfoy, Mr. Clementson, and himself, with orders to go and take Miller into custody; and he proceeded, and came to Miller's house about two o'clock; and he asked if Miller was at home, and was informed he was above stairs, and would be down in a little time; that he waited about a quarter of an hour, when Miller came down, and went into his counting-house; that he (Whittam) followed him, and told him, he hoped he would not be surprised, that he had the Speaker's warrant for taking him into custody, and offered to shew the warrant to him; and that he (Miller) just cast his eye upon it, and said, that the messenger had no authority to take him, and he should take no notice of it; whereupon he (the mes-

senger) laid his hand upon Miller's arm, and told him he was his prisoner, and that he must go with him: Miller said, that he had assaulted him in his own house; and thereupon told one of the persons present to go and fetch such a one, but does not remember the name of the constable, who came in a few minutes, and Miller charged the constable with him for the assault, and required the constable to carry him before the sitting alderman; that as he (Whittam) was going into the court where Miller lives, he saw a man, whom he takes to be the constable, come out of Miller's house, and go into a house near the opening into the court; and, by the shortness of the time, which was about three or four minutes, he judged the constable might come from that house; that the constable came into the compting-house, and Miller charged him to take the messenger (Whittam) into custody; the constable charged all present to assist him, and the messenger gave the like charge to all present on his behalf; that he is not sure the constable laid his hands on him; but, finding they were determined to arrest him, he made no resistance; that he apprehends a coach was ready by order, as there was not time to call one from the stand: the constable, and one Clarke, and Miller, and he (the messenger) went into the coach, which was ordered to drive to Guildhall, and did so.

"That, when they arrived at Guildhall, they went up stairs, and were informed that the sitting alderman was gone; that as soon as they arrived at Guildhall, Clarke went to Mr. Clementson; that he did not hear any one in particular directed to go to the Mansion-house; but that several persons followed Miller to Guildhall; and in about a quarter of an hour, word was brought the sitting alderman was at the Mansion-house; whereupon they went thither, and were taken into the room where business is usually done: they staid there about a quarter of an hour, when word was brought, the he (Miller) could not be examined till six o'clock: that he (Whittam) desired he might not be examined before Mr. Clementson came; that they staid a short time, when a gentleman came and desired Miller and him to follow him, who shewed them into a room where people were dining; they dined, and then went into another room, where he and Miller staid till they were called to the lord mayor, who was in his bed-chamber with aldermen Oliver and Wilkes, and several

other persons ; that he met Mr. Clementson as he was going into the room to the lord mayor : the lord mayor began by asking Miller concerning his being taken into custody by the messenger, and Miller gave an account of it ; then the lord mayor asked him (the messenger) by what authority he took Miller ? he answered, by the authority of the Speaker's warrant ; which the lord mayor ordered him to produce ; he did so, and was ordered by Mr. Clementson to read it, but not to deliver it out of his hands ; that as he was going to read it, the lord mayor said, he must have the inspection of it, or no notice could be taken of it ; that he then delivered it the lord mayor, upon his promise it should be restored to him ; that the lord mayor took and read it ; and he or Mr. Morris, but rather thinks the latter, ordered a copy to be taken of it, and a copy was taken accordingly :—that the lord mayor asked him, If he had applied to any civil magistrate to back the warrant, or whether he was a peace-officer ? to both which he answered in the negative :—the lord mayor then asked, by what authority he could take a citizen into custody ? That he (the messenger) answered, by the Speaker's warrant, which he thought sufficient ; and the lord mayor then said, he had no authority to take up any one in the city, without his or the authority of some city magistrate.

“Then three witnesses were sworn to the facts which passed at Miller's ; and that thereupon Mr. Clementson informed the lord mayor, that he was come by the Speaker's order to demand the messenger and his prisoner : he does not recollect the answer which was given to this demand ; but some arguments passed, and Mr. Morris spoke a good deal : then the lord mayor said, that he (the messenger) must be committed to the Compter, and Miller must be discharged ; and ordered a mittimus to be drawn, and that he saw the lord mayor sign it : that Mr. Morris then said, it would be proper that the other two aldermen should sign it, who did so, in the presence of him the messenger : the lord mayor then said, he did not desire them to be concerned, but would take it upon himself : that, before the warrant was quite completed, the lord mayor or Mr. Morris said, there was bail in the room, if it was liked of ; and one Mr. Hurford, Mr. Withy, and Mr. Reynolds an attorney, offered to be bail : before the lord mayor said I must give bail ; that he

thanked them, but did not know whether he should have occasion for it ; and said that he never had applied to them for it.

“That he declined giving bail, Mr. Clementson saying it was not proper ; and the warrant was signed and sealed : Mr. Clementson then said, that he was ready to give bail ; whereupon the lord mayor grew warm, and said he was trifled with ; and that he then said, that he, or we, would not then take bail, or words to that purpose ; upon which there was some noise and clapping of hands in the room ; and there followed some discourse between the lord mayor, Mr. Clementson, and Mr. Morris ; and he thinks, in consequence, it was agreed to take bail ; and Hurford and Withy gave bail, and Mr. Clementson agreed to it.

“That Mr. Clementson and he (the messenger) were afterwards sent back from the Speaker's to the Mansion-house, for a copy of the warrant of commitment ; and were refused it, being told, it was not to be found, but, if it should, they might have it in the morning. That he (the messenger) went a second and third time ; and was told the last time, he might have a copy of the recognizance a little before the quarter sessions, if he desired it ; but that the copy of the warrant was of no use after bail was given.”

The Committee then proceeded to examine Mr. Clementson, the deputy Serjeant at Arms ; who said, “That he went to the Speaker's house on Friday the 15th of March, to see if the warrant was signed for taking Miller into custody ; that the Speaker's secretary had prepared it, and the Speaker signed it, and delivered it to him (Clementson) who gave it to the messenger, and told him, that if he found any difficulty, to send for him, who should be at home. That he heard nothing more, till half an hour past three o'clock ; then a person came to him, and told him, he must come, for that the messenger was taken up by a constable, and charged with an assault. That he went to the Speaker's, and told him of it, who gave him directions to go and demand the messenger, and his prisoner ; and that if bail was necessary, he must give it ; but that he must see him committed first. That he went first to Guildhall, about five o'clock, but found nobody there, and was told, he should hear of them at the Mansion-house. That he went there, and was introduced to the lord mayor, in his bedchamber. That he told the lord mayor, he under-

stood, that the messenger, to whom the warrant was directed for apprehending Miller, was taken up by a constable, and charged with an assault; that he therefore desired to know, if the messenger had been brought before him. That the lord mayor said, he had been told, that a person, who was called a messenger of the House of Commons, had been brought there, and charged with an assault. That he (Clementson) waited in an anti-room till six o'clock. That the messenger then came, and Miller and a constable (John Downe) and a large concourse of people. Then they went in to the lord mayor; alderman Wilkes and alderman Oliver were there with him. The lord mayor asked, what was the purpose of their coming thither? Miller said, he charged Whittam, the messenger, with an assault: on this, Mr. Robert Morris appeared, and said, he was counsel for Miller the prosecutor. He said, that Miller had been violently assaulted, and falsely imprisoned, by an illegal warrant. Downe, the constable (who was asked for by the lord mayor) said, Miller had applied to him, about one or two o'clock, and had complained of an assault on him, in his own house, by the messenger, and charged him to take the messenger into custody; he therefore took him into custody, in order to carry him before a proper magistrate.

" Miller was then called upon; who said, that a person who called himself a messenger of the House of Commons came to him, and took him into custody, by virtue of a pretended warrant. That Miller was then sworn by the lord mayor, and said upon his oath, that what he had before said was true: he went on, and said, he had refused to go with the person. That the person had used violence, and had seized hold of him, and was pulling him along. That the lord mayor asked the messenger, what offence Miller had committed, or what authority he had for assaulting Miller in this manner? The messenger said, he had the Speaker's warrant, directed to him, to take Miller into custody: the lord mayor asked where the warrant was? That he (Clementson) told Whittam to open it, and read it himself. That the lord mayor or Mr. Morris, (he can't say which) said it must be produced. That he (Clementson) objected to it for some time; but the lord mayor saying it could not be taken notice of, if not produced, he delivered it to the lord mayor, on his promising to deliver it back to him;

that he waited till this time, to see the nature of the assault charged on Whittam; and finding that it was for executing the warrant for taking Miller into custody, he then told the lord mayor, that he appeared before him as deputy Serjeant at Arms of the House of Commons; that he came there by the Speaker's directions, and had his commands to demand not only Whittam the messenger, but likewise Miller his prisoner; and he made that demand in the most solemn manner he was able.—That Mr. Morris, on this, desired he (Clementson) might be sworn as an evidence: but he (Clementson) declared he would not be sworn, and said, He did not come as an evidence, but as an officer of the House of Commons, to execute the commands given him by the Speaker.—The lord mayor said—he could not take notice of any thing, in his magisterial capacity, that was not given upon oath.—That he was then asked by Morris, if he refused to be examined to any of the facts or circumstances within his knowledge?—That he doubted at first what answer to give to that; but, on recollection, he said, if there was the least doubt either of the warrant being signed by the Speaker, or of his (Clementson's) having the Speaker's commands to demand Whittam the messenger and Miller his prisoner, he was ready to be sworn to the truth of those matters, but would not be sworn generally.—Finding that to be his resolution, Mr. Morris declined swearing him as to those matters; but he (Clementson) again repeated, that if there was any doubt as to those matters, he was ready to swear to them.

" That the lord mayor asked Whittam, if he was a peace officer or a constable? he said, he was not:—if he had applied to any city magistrate to back his warrant? he said, he had not:—upon this, the lord mayor declared, that it was very extraordinary for any citizen to be taken up in the city of London, without the knowledge or authority of the lord mayor, or some other magistrate of the city; and that, if this was permitted to be the case, it would be trampling on the laws, and there would be an end of the constitution of this country.

" Then Miller was examined, as to his being a liveryman of the city of London.—The lord mayor said, it was his opinion, that no warrant, but from him or some other magistrate of the city, was good and valid to take up any citizen; that

he thought himself bound, so long as he held the great office of chief magistrate of the city of London, to take notice of a proceeding of this sort; and that it was his duty to defend the citizens, and their rights and liberties, to the last extremity.—He said, he was of opinion, the messenger had no right to take up Miller, who was a citizen not being charged with any felony, trespass, or breach of the peace.

“That Mr. Morris then took four objections to the warrant; 1. That the words ‘House of Commons’ was not a sufficient description of the power which had passed the vote—that it should have been, ‘the House of Commons in parliament assembled.’ 2. That ‘J. Miller’ was no sufficient description of the person. 3. That the offence was not inserted; and therefore that it was illegal, and without colour of law. 4. That it did not appear, that ‘Fletcher Norton, Speaker,’ who signed the warrant, was the sir Fletcher Norton, who is Speaker of the House of Commons.

“That the lord mayor asked Whittam, Whether he intended to carry Miller away as his prisoner? Whittam said, he did.—The lord mayor then said, he thought the warrant was illegal; and therefore he discharged Miller out of the custody of the messenger; and said at the same time, This citizen comes here to claim a citizen’s protection of me, and I think he is entitled to it.

“That then the lord mayor proceeded on the assault.—Miller proved that Whittam had laid hold of his arm and pulled him; and that about five minutes afterwards the constable came. After this, three persons were produced to prove the assault: Henry Page of Newgate-street, printer; John Topping, of the Old Bailey, printer; Robert Page, of Newgate-street, printer. They proved, That Whittam laid hold of Miller’s arm and said, he was his prisoner; and that Miller said, he should not go, or did not chuse to go. That Whittam said, you must go; and Miller said, he should not; and then Whittam charged every body present to assist him. After this, the constable was brought; and the constable charged all present to assist him.

“That the lord mayor, on this, gave it as his opinion, that the assault was fully proved: and that Whittam must give security to appear at the next session for the city of London, to answer such indictments as should be then found against

him for the assault and false imprisonment, himself in forty pounds, and two securities in twenty pounds each; and that Miller was to be bound to appear and make out the charge. Mr. Morris, and many others present, were ready to be bail for Whittam; that Whittam was very much frightened, and was ready to offer bail; but he (Clementson) insisted he should not give bail.—The lord mayor desired it might be noticed, that bail was offered, but not accepted by Whittam.

“Then the lord mayor directed a warrant to be made out; and the person who had these directions he saw fill up what he supposed was the warrant; and the lord mayor declared, it was a warrant for committing Whittam to the Compter.—That he saw the lord mayor sign that paper.—On this, Mr. Morris desired the other two aldermen might sign the warrant, as well as his lordship, else it might be supposed, that they did not concur in opinion with his lordship.—The lord mayor said, he did not desire any body else to sign it, though the two aldermen declared themselves ready to do it; and he particularly said to alderman Wilkes, ‘I think you have enough upon your hands already.’—The warrant however was directed to be altered by the clerk into the plural number; and he saw that paper signed by the other two aldermen Wilkes and Oliver.—That he asked the lord mayor if it was signed by them all; and he said, it was; and directions were given by the lord mayor and Mr. Wilkes to the constable, that he (Whittam) might be used kindly in prison.—That just before they were going to take him away, he thought that, this being a commitment, he had gone far enough; and then he offered bail.—That the lord mayor grew warm at this, and said, that he found that this proceeding meant to exaggerate the offence, or business, or the proceeding; he could not recollect exactly the word he made use of.

“That, after this was done, he came back immediately to the Speaker; and upon his relating what had happened, he desired him to go back and try to get a copy of the warrant of commitment.—The lord mayor said, he could not tell where to find it then, every body being gone away; but that if it was not destroyed, being now of no use, he should have a copy; but that I knew he had signed it alone first, and that afterwards alderman Wilkes and alderman Oliver desired to sign it too; and that he and alderman

Oliver should, in their places in the House of Commons, admit their having signed such a warrant; but that he should have a copy of it in the morning if it could be found.—That he applied again on Saturday morning to the lord mayor for a copy of the warrant; he said, he could not yet find it; that some of them had taken it away, and he knew not where it was, but that, if it could be found, Whittam should have a copy of it; that it did not signify, for that he did not mean to deny what had been done, or make use of any subterfuge; and that this was all that he (Clementson) had done.—That he did not go to execute the warrant himself; and that it was not sealed.”

And he further added this circumstance, “That he recollects, when the lord mayor had signed the mittimus, and he the deputy serjeant had offered bail, the lord mayor grew warm, and made use of some expression, that he should not take bail then, or words to that purpose; saying, that this proceeding meant to exaggerate the offence, or words to that effect; but he soon afterwards said, he must take bail.

“That he endeavoured to serve the order of the House on J. Wheble; and went on Thursday the 28th February, to his (Wheble's) shop, and enquired for him, and the servant said, he was not at home, but would be in an hour's time; that he called again, and received the same answer;—that he called again, and was answered by a lad in the shop, who said he was an apprentice, that he was not at home, being gone to the other end of the town; and that his master had waited all the day before, expecting him.—That he (Clementson) then said, that he would call again in an hour, and bid him tell his master.—That he did so; and was told, he (Wheble) had been in, and was gone out again; but if he would let him know where he (Clementson) might be found, he would wait on him. That he went to a coffee-house, and waited; then called again, and was told, Wheble was expected to dinner at three o'clock.—That he called at half an hour past three, and was told Wheble was not at home, but would be soon.—That he called again at four and five o'clock, and received the same answers.—That he left word, he was the deputy serjeant at arms, and would be there again at half an hour past nine in the morning; which he accordingly was, and was told by the same person, that

Wheble was not at home, but said, he had delivered the message he had left with him, and that his master said, he was very sorry he was obliged to go out, and he left no word when he would be at home.—That he called again at eleven o'clock, and he was not at home; but was answered, he might be in, in half an hour. That he went again on Saturday at ten o'clock, and the apprentice said, he was not at home, but would be in the afternoon; and said it with a smile, as if laughing at my frequent calling; and said, if he would leave word where he might be found, we will send you word when he is at leisure.—That he (Clementson) said, he would be there at seven o'clock, which he accordingly was, but was told, he (Wheble) was not at home, and had sent for his linen, and therefore was not expected till Monday.

“That he did not go to Thompson till Friday the first of March, because there were two R. Thompsons, one Richard, the other Robert. That he found, at the Stamp-office, that Thompson had been summoned before the commissioners to give security, and said his name was Robert: that he sent a messenger to enquire in the neighbourhood, and found there was but one: that he went to Thompson's house, and was told by a man he was not at home, nor could tell when he would be, or whether he was in town; that he had seen him two or three days before; that nobody knew more about Thompson than himself, and if he (Clementson) would leave a message, he would deliver it: that Williams the messenger then said, you know our business; to which he made no answer: that he went again at eleven o'clock; and the servant said, Thompson was not at home; for he had not seen him, and nobody knew better than he; and said, that if he (Clementson) had business with Thompson, it was usually left with him first, and that no time was more likely to meet with him than that day or to-morrow.

“That he (Clementson) went again on Saturday; and the same person told him Thompson was not at home, but would be in half an hour, but had no reason for thinking so: that he went twice afterwards and he was not at home, nor had been, and that he did not know when he would be: that he (Clementson) said, then he will not see me; and received for answer, he could not tell.”

And he farther said, “That there had been one more attempt since, to execute

the warrants on Wheble and Thompson; that Mr. Speaker had made an alteration in the direction of the warrants, by inserting the name of Wood the messenger; that Wood took the warrant, and he (Clementson) followed after, to endeavour to find Wheble and Thompson; that he (Clementson) waited at a coffee-house in Wheble's neighbourhood; that Wood went and endeavoured to find them, but without effect."

Your Committee then proceeded to examine Charles Williams, the messenger; who said, "he attended the serjeant, in endeavouring to serve the warrants on Wheble and Thompson, on Thursday the 28th day of February: that he went six or seven times to Wheble's house; that he did not find him at home, but was told he would be at home soon. That he went to Thompson's several times, and received the same sort of answers; that the business they came upon was known at both places; and that he had read Mr. Clementson's minutes at the time, which he found were right."

The Committee then proceeded to examine Guy Wood, the messenger; who said, "He had the Speaker's warrant, about the tenth or eleventh of March, to arrest Thompson and Wheble; that he received it from the deputy serjeant; that his (Wood's) name was inserted in the warrant; that he went with one Mr. Lee to Thompson's house; that Lee went in and enquired for Thompson; that they had agreed, that if Lee staid above a minute, he (Wood) was to come in after him; but Lee, not finding him at home, came out immediately. That they went from thence to Wheble's, and proceeded in the same manner. Lee went in, and was told Wheble was gone into the country: they then went to the Green Dragon in Fleet-street, where Wheble's evening papers are delivered, and stayed some time, to try if they could see him come after his papers, or about his business, but could see nothing of him; that they have made several enquiries since, and can hear nothing of him."

Your Committee having thus stated the evidence of the facts and circumstances relative to the late obstructions to the execution of the orders of this House, as it appeared before them, proceeded to the other part of what was given them in charge; namely, "to consider what further proceedings may be requisite to enforce a due obedience to the orders of the

House;" and, in order to form their judgment upon that matter, they have made a diligent search in the Journals, to see what the proceedings of the House have been on similar occasions, or, if no cases strictly analogous should occur, at least to deduce, from the general practice of the House, such principles of parliamentary law as might be applicable to the present matter referred to their consideration.

And in this place the Committee beg leave to observe, that it appears to them that this House has, from the earliest times, asserted and exercised the power and authority of summoning before them any commoner, and of compelling his attendance; and that this power and authority has ever extended as well to the city of London, without exception on account of charters from the crown, or any pretence of separate jurisdiction (instances of which appear in the cases referred to in the margin)* as to every other part of the realm.

And that the House have ever considered every branch of the civil authority of this government as bound (when required) to be aiding and assisting to carry into execution the warrants and orders of this House.

In order to lay before the House the result of their enquiry with tolerable brevity, and some degree of method, the committee have reduced under three general heads the obstructions which have been given at different times to the orders of the House, and under each of these heads have ranged the different modes in which these breaches of privileges and contempts have been offered; and then submit to the consideration of the House

* Ferrers' case, in Crompton, fo. 9 & 10.—Stanman, 6 E. 6. 1st vol. p. 18.—Boswell, 2 and 3 P. and M. 1555.—Nov. 20, 1st vol. p. 44.—Corbet, 5 and 6 P. and M. 1557, Nov. 10, 1st vol. p. 51.—Six servants of sir H. Jones, 10 Feb. 1562, 1st vol. p. 65.—Wm. Jones, 29 Oct. 8 Eliz. 1566, 1st vol. p. 75.—Sir J. Shirley, March 22, 1608, 1st vol. p. 169.—Sterling, 1666, vol. 8, p. 335.—4 June 1675, vol. 9, p. 354, "It is not against the king's dignity for the House of Commons to punish, by imprisonment, a commoner that is guilty of violating their privileges, that being according to the known laws and custom of parliament, and the right of their privileges, declared by the king's royal predecessors in former parliaments, and by himself in this."—1 April 1697, vol. 11, p. 765, John Salusbury.—3 Jan. 1703, vol. 14, p. 269, Tutchin, How, and Brag.—27 May 1721, vol. 19, p. 562, Mist.

the several methods of proceeding which the House hath opposed to these offences, the proofs of which proceedings appear by cases referred to in the margin of this Report.

The three general heads of breaches of privilege and contempts of this House are, namely, those arising from,

First, Evasion.

Secondly, Force.

Thirdly, Colour of law.

Offences under the first and second of these heads have been committed—by the absconding of the parties summoned—by open resistance to the officers of the House—and by riots and tumults—by the refusal of civil officers to assist the serjeants or messengers of this House, or to release persons entitled to the privilege of this House when detained in their custody.

It appears also to your Committee, as well from searching the Journals of this House, as from other authentic evidence, that, in order to remedy the abuses, and to remove the obstructions above recited, this House has proceeded to support their privileges, and to enforce the execution of their orders, by the following methods; namely,

1. By addressing the crown to issue proclamations for apprehending those persons who thus stood in contempt of the House.*

2. By renewing their orders against such persons, and committing them in a subsequent session of parliament.†

* Sir Giles Mompesson, 28 Feb. and 3 March 1620, vol. 1, p. 537.—Windebank, Dec. 10, 1640, vol. 2, p. 48.—Sir Basil Brook, April 24, 1641, vol. 2, p. 127.—Sir John Lloyd, &c. Jan. 8, 1680, vol. 9, p. 702.—Brent, Feb. 22, 1688, vol. 10, p. 32.—Sir Adam Blair, June 15, 1689, vol. 10, p. 182.—Standish, March 12, 1694, vol. 11, p. 266.—Mackenzie, vol. 11, p. 486.—Grascomb, Nov. 30, 1696, vol. 11, p. 602.—Soranzie, April 11, 1700, vol. 13, p. 321.—Jeffreys, Addy, and Clifton, March 25 and 26, 1701, vol. 13, p. 427, 436, 437.—Colepeper and others, March 28, April 2, 1702, vol. 13, p. 826.—Tutchin, &c. printers, Feb. 14, 1703, vol. 14, p. 336.—Rioters, in Sacheverel's case, March 2d, 4th, and 6th, 1709, vol. 16, p. 343, 346.—Rebels, 4 and 6 Feb. 1715, vol. 18, p. 368.—Wilkinson, 9 June and 4 July 1721, vol. 19, p. 585.—Leverland, 6 March 1746, vol. 25, p. 313.—A. Murray, 26 Nov. 1751, vol. 26, p. 309.—Reynolds, 11, 12, 15, 16, and 18th Feb. 1768, vol. 31, p. 603, 606, 610, 612, 618.

† Harvey and Martin, 22 April 1713, 17th vol. p. 298.—Inglefield, 29 Jan. 1725, 20th vol. p. 549.—Phillips and Barnes, 22 Jan. 1733, 22d vol. p. 210.—A. Murray, as above.

3. By orders to mayors, bailiffs, and sheriffs, to assist the serjeant or messenger for the apprehending of such persons; or to the serjeant of this House, to call on the sheriffs of Middlesex, and the sheriffs of other counties, and all other magistrates and persons, for their assistance.*

4. By committing, for breach of privilege of this House, those officers of the peace who have refused their assistance to the serjeant of this House when so called on.†

5. By imprisoning those who refused to release persons entitled to the privilege of this House, and by increasing the severity of their restraint, according to the nature of the offence, and in consequence of the contumacy of the offender.‡

With regard to the third head—namely, breaches of privilege, and contempts of this House, under colour and pretence of law; it appears to your Committee, that the same have been attempted, by discharging out of custody persons who have been committed by order of the House:

By impleading, in the courts of justice, persons entitled to the privilege of this House, in the cases there brought in question.

By prosecutions, before the said courts, for words or actions spoken or done under the protection of this House.

By accusations, tending to call in question, before the said courts, words or actions so spoken or done, under false or pretended denominations of offences, not entitled to the privilege of this House.

It appears also to your Committee, in searching the Journals, that in the above recited instances this House has proceeded,

1. By taking again into custody persons discharged without order of the House.§

* Ratcliff, 14 Nov. 1640, vol. 2, p. 29.—Sir Basil Brook, Jan. 11 and 25, 1641, vol. 2, p. 371.—Nabbs and Thompson, 21 Dec. 1660, vol. 8, p. 222.—Dudley, 24 Jan. 1670, vol. 9, p. 193.—Topham, 4 June 1675, P. M. vol. 9, p. 353.

† Hastings and Crook, 19 May 1675, vol. 9, p. 341.—Topham, as above.—Blythe, 7 April 1679, vol. 9, p. 587.—Owen, 28 March 1702, vol. 13, p. 826.

‡ Ferrers.—Sir T. Shirley and Stirling, as above.

§ Pemberton and others, 2 June 1675, vol. 9, p. 351.—Duncomb, March 22, 1697, vol. 12, p. 174; when the House resolved, That no

2. By directing Mr. Speaker to write letters to the justices of assize, and other judges, to stay proceedings.*

3. By Resolutions of this House, that the suits and actions commenced and carried on in these cases should be discontinued and annulled, and should be deemed violations of the privileges of this House.†

4. By committing those judges who have proceeded to the trial of, or pronounced sentence upon, persons entitled to the privilege of this House, for words or actions spoken or done under the protection of the privilege of this House.‡

Your Committee have selected a few cases, from among the many referred to in the margin of this Report, which, from the nature of their circumstances, or the importance of the doctrine which they illustrate, or the consequences which they

person committed by this House can, during the same session, be discharged by any other authority whatsoever. Charles Duncombe having been committed by order of this House, and afterwards discharged by the order of the House of Lords, without the consent of this House; it was resolved, That the said Charles Duncombe be taken into the custody of the serjeant at arms attending this House.

* Strickland, 19 March 1605, vol. 1, p. 287. Potts, 2 Feb. 1606, vol. 1, p. 331.—Harrison, 26 and 27 Feb. 1606, for stay of trial, as in other like cases has been usual, vol. 1, p. 342, 343. Sir R. Gargrave, Sir W. Kingswell, *eadem die et loco*.—Bond, Feb. 28, 1606, vol. 1, p. 345.—Hyam, 5 March 1606, vol. 1, p. 349.—Powlett, 5 May 1607, vol. 1, p. 369.—Bullingham, 13 May 1607, vol. 1, p. 373.—Bowes, 20 May 1607, vol. 1, p. 375.—Johnson, 10 June 1607, vol. 1, p. 381.—Stone, 20 June 1607, vol. 1, p. 386.—Pelham, 2 May 1610, vol. 1, p. 423.—Sanders, 18 and 21 May 1610, vol. 1, p. 429.—“General motion about letters to be written to the justices of assize, referred to the committee of privileges, report this resolution: Resolved, That the former course of writing letters to the justices of assize, according to precedents; and, if required, a warrant for inhibition to the party,” 3 March 1620, vol. 1, p. 537.—Lord Bulkley, 28 April 1691, vol. 10, p. 537.

† Sir Robert Howard, 17 Feb. 1625, vol. 1, p. 820.—Sir William Williams, 7 Feb. 1688, vol. 10, p. 21, 146, and 215. Hollis and others, 6 July 1641, vol. 2, p. 202 and 203.—Jay and Topham, 4 June 1689, vol. 10, p. 64, 210, 213, and 227.—Elford, 13 and 14 April 1716, vol. 18, p. 420; and on the 16th April the clerk of the peace was ordered to erase the name at the table.

‡ Case of the five members, 18 Jan. 1641, vol. 2, p. 377.—Jay and Topham, as above.

produced, seemed to your Committee fit to be more fully stated than the margin would admit; and are therefore added as an Appendix to this Report.

Your Committee beg leave to observe, that, in the diligent search they have made in the Journals, they have not been able to find an instance, that any court or magistrate has presumed to commit, during the sitting of parliament, an officer of the House, for executing the orders of the House.

They farther beg leave to observe, that they have not been able to find, that there has ever been an instance, wherein this House has suffered any person, committed by order of this House, to be discharged, during the same session, by any other authority whatsoever, without again committing such person.

And therefore, with regard to J. Miller, who was delivered from the custody of the messenger by the lord mayor, who for the said offence is now under the censure of the House; as it appears to your Committee, that it highly concerns the dignity and power of the House, to maintain its authority in this instance, by re-taking the said J. Miller—the Committee recommend to the consideration of the House,

Whether it may not be expedient, that the House should order, That the said J. Miller be taken into the custody of the Serjeant at Arms attending this House.

And that the Serjeant at Arms, his deputy or deputies, be strictly enjoined to call upon the magistrates, officers of the peace, and other persons, who, by the terms of the Speaker's warrant, are required to be aiding and assisting to him in the execution thereof, for such assistance as the said Serjeant, his deputy or deputies, shall find necessary to enable him or them to take into custody the said J. Miller.

APPENDIX.

Crompton on Jurisdiction of Courts,
Fo. 9, 10.

“In the 34th of Henry the 8th, one George Ferrers, a burgess for the town of Plymouth, was arrested in London, by a process out of the King's-bench, at the suit of one White; of which the House being informed, ordered the serjeant to repair to the Compter in Bread-street, whither the said Ferrers was carried, and there to demand the delivery of the prisoner. The serjeant went to the Compter,

and declared to the clerks there, what he had in commandment; but the clerks and other officers of the city, after many high words, forcibly resisted the serjeant. Whereupon ensued a fray, in which the serjeant's man was knocked down, and the serjeant was driven to defend himself with his mace of arms. During this fray, the sheriffs of London, called Rowland Hill, and H. Suckley, came thither, to whom the serjeant complained of this injury, and required of them the delivery of the prisoner; but they took part with their officers, and gave no attention to his complaint, and contemptuously refused to deliver the prisoner. The serjeant returned to the House, and made his report of the above transaction; who thereupon would sit no longer without their burgess, but rose and repaired to the upper House, where the whole case was declared by the mouth of the Speaker, before the lord chancellor, and all the lords and judges there assembled, who, judging the contempt to be very great, referred the punishment thereof to the order of the House of Commons; who being returned to their House, ordered the serjeant to repair immediately to the sheriffs of London, and to require the delivery of the prisoner, without any writ or warrant, though the lord chancellor offered to grant a writ, which the House of Commons refused, being clearly of opinion, that all commands, and other acts proceeding from their House, were to be done and executed by their serjeant, without writ, only by shew of his mace, which was his warrant. The sheriffs, upon this second demand, delivered the prisoner: but the serjeant, in pursuance of his orders, charged the said sheriffs to appear before the House the following day, by eight of the clock in the morning, and to bring thither the clerks of the Compter, and such other of their officers as were parties to the fray. The serjeant had also orders to take into custody the said White, who had procured the said arrest, in contempt of the privilege of parliament. The sheriffs, on the next day, with one of the clerks of the Compter, who was the chief occasion of the fray, together with the said White, appeared before the House; where the Speaker charging them with their contempt and misdemeanour aforesaid, they were compelled to make immediate answer, without being admitted to any counsel, although sir Robert Cholmley then recorder of London, and other the counsel of the city there present, offered to speak in the

cause, which were all put to silence, and none suffered to speak but the parties themselves: whereupon, in conclusion, the said sheriffs and White were committed to the Tower of London; and the said clerk, who was the occasion of the fray, to a place there called Little Ease, and the officers of London call Taylor, with four other officers, who had arrested Ferrers, were committed to Newgate.

“The king, being informed of this proceeding, called before him the Lord Chancellor of England, and the Judges, with the Speaker, and many others of the House of Commons, to whom he declared his opinion to this effect: he commended their wisdom in maintaining the privileges of their House; he, among other things, further declared, that he was informed by his judges, that he at no time stood so highly in his estate royal, as in the time of parliament, when he as head, and they as members, are conjoined and knit together, into one body politic; so as whatsoever offence or injury, during that time, is offered to the meanest member of the House, is to be judged as done against his royal person, and the whole court of parliament; which prerogative of the court is so great (as his learned counsel inform him) that all acts and processes coming out of any other inferior courts, must for the time cease, and give place to the highest.

“Whereupon sir Edward Montagu, then lord chief justice, declared his opinion, confirming by divers reasons what the king had said; which was assented to by all the rest, none speaking to the contrary.”

This case is also referred to by sir Robert Atkyns, in his tract on the Power, Jurisdiction, and Privilege of Parliament, and in Dyer's Reports.

Sir ROBERT HOWARD'S CASE, 17 Feb. 1625. Vol. 1, p. 820.

“Motion made, where sir Robert Howard, during privilege of parliament, was excommunicated for not taking the oath *ex officio*.

“Resolved, upon question, to refer this to the examination of a select committee, Mr. Selden and others.

“This committee to take consideration of the restraint and excommunication of sir Robert Howard; and to make their Report to the House of their proceedings and opinions therein,” p. 821.

March 21, p. 839. “Mr. Selden re-

ports from the committee, That sir Robert stood privileged by the House, when these proceedings were had against him.—That upon his appearance before the court, an oath was tendered him, to answer things objected against him; he answered, he was a burgess of parliament. They pressing him notwithstanding to answer, they at length committed him close prisoner to the Fleet. Having laid two days, he petitioned the lord keeper for a *corpus cum causa*; and upon Mr. Bembow's certificate that he was a parliament man, the lord keeper enlarged him by the 10th of March.—That day the court of high commission pressed him again to answer; he claimed the privilege of parliament again; they (the parliament approaching) gave him time of deliberation. On the 15th of March the parliament sat and adjourned. On the 17th of March they called him again; when he brought them the copy of the indenture of return under Bembow's hand, and the copy of the Habeas Corpus upon which he had been delivered. That, he being again pressed to answer, and he claiming privilege as before, they, because he shewed no record to prove him a parliament man, pronounced him *contumax*, and excommunicated him; ordering him further, he should, before the 19th of March, attend one of the commissioners, and be bound in 3,000*l.* to appear the Wednesday after, and stand to the order of the court.

“Resolved, upon question, that sir Robert Howard ought to have had privilege of parliament, *nem. con.*”

“Secondly, Resolved, upon question, that sir Robert Howard claimed his privilege of parliament in due manner, *nem. con.*”

“Resolved, upon question, that a day be assigned to the members of our House, and those other which are commoners, to answer in the House their proceedings against sir Robert Howard. This to be done upon Friday next, nine o'clock.”

“Those of our own members to be made acquainted with the day; for the other commoners, a warrant shall issue under Mr. Speaker's hand, for their appearance that day.”

3d May, p. 854, “Sir John Hayward called in about sir Robert Howard's business, and interrogated by Mr. Speaker, &c.

“Dr. Pope called in, and interrogated.

“Mr. Mottersey, the register, called in, and interrogated.

“Upon question, all the proceedings in the high commission court against sir Robert Howard, from the 1st of February, 22 James, at which time he ought to have had his privilege of parliament, declared to be void, and ought to be vacated and annihilated.

“Secondly, upon question, whether a letter to be written, by Mr. Speaker, to the lord of Canterbury and the rest of the lords, and others of the high commissioners, for annulling of the said proceedings? the House divided. Carried for the negative.

“Upon question, sir John Hayward, Dr. Pope, and the Register called in; and the effect of the said order declared to them by Mr. Speaker; and that the House expecteth it to be done, and to hear by Monday next that this be done; and in the mean time, the House will respite any resolution concerning themselves; and that they attend the House again on Monday morning: and the like notice to be given to Mr. Comptroller and sir H. Martyn, by the serjeant: all which was done by Mr. Speaker accordingly.”

10 June, p. 869. “Sir George More informeth the House, that he was present at a high commission court, where seven bishops present; and knoweth, that then all the proceedings against sir Robert Howard, from the 1st of February, 22 Jac. were frustrated and made void. And sir H. Martyn affirmed, that the order of the House there read and allowed; and all ordered to be done there accordingly.

“Tuesday next, for full satisfaction to be given to this House, of the performance of the order concerning sir R. Howard.”

On the 15th June, the parliament was dissolved.

1661, 18 December, vol. 8, p. 335.

CASE OF STERLING.

“Upon information given to this House, that alderman — Sterling, one of the sheriffs of London, being served with an order, signed by Mr. Speaker, to discharge James Lyde, menial servant to sir Henry Herbert (who was arrested and imprisoned in the Poultry-compter) out of prison; the said sheriff refused to obey the said order, or discharge the said Lyde; but put the order up in his pocket, and said, he would answer it to the Speaker in the House.

“Resolved, That the said sheriff Sterling be forthwith this morning sent for, in custody of the serjeant at arms, to this

House, to answer his misdemeanor and breach of privilege."

Dec. 19. "Resolved, That sheriff Sterling be called to the bar of this House; and shall, upon his knees, receive the reprehension of Mr. Speaker, for his contempt and breach of the order of this House; and that he be continued in the custody of the serjeant at arms, till he do cause Lyde, servant to sir Henry Herbert, to be released out of prison, without any fees or charges.

"The sheriff being called in, and kneeling at the bar, Mr. Speaker gave him a grave reprehension; and told him, that some sheriffs of London, for a less offence, had been sent to the Tower; but, in regard of his loyal affections to his Majesty, the House was pleased to remit his offence, upon the enlargement of the prisoner: but that he should remain in the serjeant's custody until the prisoner was released, as aforesaid."

4 June 1675, P. M. Vol. 9. p. 353. "Ordered, That Mr. Speaker do issue out a warrant to John Topham, esq. serjeant at arms now attending this House, to authorize and require him, that, if any person or persons shall attempt or go about to arrest, imprison, or detain him from executing his office, or from his attendance upon this House, to apprehend such persons, and bring them in custody to answer their breach of privilege; and to require and authorize all persons to be aiding and assisting to him therein."

4th June 1689, vol. 10, p. 164. "A Petition of John Topham, esquire, was read; setting forth, That he, being a serjeant at arms, and attending the House, in the year 1679 and 1680, when several orders were made and directed to the petitioner, for the taking into his custody the several persons of sir Charles Neal, &c. &c. and others, for several misdemeanors by them committed, in breach of the privilege of the House; and after that the Commons were dissolved, the said persons, being resolved to ruin the petitioner, did, in Hilary Term, the 33d or 34th of king Charles, sue the petitioner in the King's-bench, in several actions of trespass, battery, and false imprisonment, for taking and detaining them as aforesaid; to which actions the petitioner pleaded to the jurisdiction of the court the said several orders; but such his plea was over-ruled; the then judges ruling the petitioner to plead in chief, and thereupon he pleaded the orders in bar to the ac-

tions; notwithstanding which plea and orders, the then judges gave judgment against him, &c."

5th July, p. 209. "Colonel Birch reports from the committee of privileges and elections, to whom the petition of J. Topham was referred, &c."

"Whereupon the House resolved, That this House doth agree with the committee, That the judgment given by the court of King's-bench, in Easter term, 34 Car. 2, regis, upon the plea of John Topham, at the suit of John Jay, to the jurisdiction of that court; and also the judgments given against the said Mr. Topham, at the suit of Samuel Verdon, &c. are illegal, and a violation of the privileges of parliament, and pernicious to the rights of parliament."

"Ordered, That sir Francis Pemberton, sir Thomas Jones, and sir Francis Wythens, do attend this House, on Wednesday morning next."

19 July, p. 227. "Sir Francis Pemberton and sir Thomas Jones attending, were called in; and having been heard in their defence, were committed to the serjeant at arms, for their breach of the privileges of this House, by giving judgment to overrule the plea to the jurisdiction of the court of King's-bench, in the case between Jay and Topham."

The Case of sir William Williams;* against whom, after the dissolution of the parliament held at Oxford, an information was brought, by the attorney general, in the King's-bench, in Trin. term, 36 Car. 2, for a misdemeanor, for having printed the information against Thomas Dangerfield, which he had ordered to be printed, when he was Speaker, by order of the House. Judgment passed against him on this information in the second year of king James the second.—This proceeding the Convention parliament deemed so great a grievance, and so high an infringement of the rights of parliament, that it appears to your Committee to be the principal, if not the sole, object of the first part of the eighth head of the means used by king James to subvert the laws and liberties of this kingdom, as set forth in the Declaration of the two Houses; which will appear evident from the account given in the Journal, 8th Feb. 1688, of the forming of that Declaration, the eighth head of which was at first conceived in these words; viz. "By causing informations to be brought

* See Howell's State Trials, vol. 13, p. 1369.

and prosecuted in the court of King's-bench, for matters and causes cognizable only in parliament; and by divers other arbitrary and illegal courses."

11 February, 1688. "To this article the Lords disagreed; and gave for a reason, because they do not fully apprehend what is meant by it, nor what instances there have been of it; which therefore they desire may be explained, if the House shall think fit to insist further on it."

12 February 1688. "The House disagree with the Lords in their amendment of leaving out the eighth article. But in respect of the liberty given by the Lords in explaining that matter;

"Resolved, That the words do stand in this manner: By prosecutions in the court of King's-bench for matters and causes cognizable only in parliament, and by divers other arbitrary and illegal courses."

By which Amendment, your Committee observes, that the House adapted the article more correctly to the case they had in view; for the information was filed in king Charles the second's time; but the prosecution was carried on, and judgment obtained, in the second year of king James.

That the meaning of the House should be made more evident to the Lords; the House ordered, "That sir William Williams be added to the managers of the conference;" and sir W. Williams the same day reports the conference with the Lords; and "That their lordships had adopted the article in the words as amended by the Commons." And corresponding to this article of grievance is the assertion of the right of the subject, in the ninth article of the declaratory part of the Bill of Rights; viz. "That the freedom of debates or proceedings in parliament ought not to be impeached or questioned in any court or place out of parliament."

To which may be added, the latter part of the sixth Resolution of the exceptions to be made in the Bill of Indemnity, Journal, vol. 10, p. 146, wherein, after reciting the surrender of charters, and the violating the rights and freedoms of elections, &c. it proceeds in these words: "And the questioning the proceedings of parliament, out of parliament, by declarations, informations, or otherwise, are crimes for which some persons may be justly excepted out of the Bill of Indemnity."

On the 11th of June 1689, p. 177. "The House ordered, That the records of the court of King's-bench, relating to

the proceedings against William Williams, esq. now sir W. Williams, knight and baronet, late Speaker of this House, be brought into this House, by the Custos Brevium of the said court, on Thursday morning next."

On the 12th of July, p. 215, "The record was read; and the House thereupon resolved, That the judgment given in the court of King's-bench, in Easter term, 2 Jac. 2, against William Williams, esq. Speaker of the House of Commons, in the parliament held at Westminster, 25 October 32 Car. 2, for matters done by order of the House of Commons, and as Speaker thereof, is an illegal judgment, and against the freedom of parliament.

"Resolved, That a Bill be brought in, to reverse the said judgment."

This Bill was twice read; but went no further in that session.

1691, 28 April, vol. 10, p. 537. "A complaint being made to the House, that Samuel Hughes and William Philipps, esquires, Walter Thomborough, an attorney at law, and Francis Meare, had, by a prosecution at law, in the last great session for the county of Pembroke, endeavoured to turn Richard viscount Bulkeley of the kingdom of Ireland, a member of this House, out of the possession of part of his estate;

"Ordered, That it be referred to Mr. Speaker, &c.

"Ordered, That Mr. Speaker do write a letter to the prothonotary that he do not make out, and to the sheriff of the county of Pembroke that he do not execute any writ, whereby the lord Bulkeley's possession may be disturbed, until Mr. Speaker shall have examined and reported the matter to the House, and this House take further order therein."

1716, April 13, 14, 16, vol. 18, p. 420. "The House being acquainted that Jonathan Elford, esq. a member of this House, has been summoned, by John Metcalf and Alexander Ward, esquires, two justices of the peace for the county of Middlesex, to appear before them, to take the oaths appointed by the late act of parliament; which summons was delivered in at the clerk's table, and read:

"Ordered, That John Metcalf and Alexander Ward, esquires, do attend this House to-morrow morning."

April 14. "Were called in: they acknowledge they did issue a warrant for Mr. Elford to come and take the oaths; but that they did not know he was a mem-

ber of the House, until they had made a return into the quarter sessions.

"Ordered, That the clerk of the peace for the county of Middlesex do attend, upon Monday morning next, with the return, &c."

April 16. "Ordered, *nem. con.* That the deputy clerk of the peace for the county of Middlesex be called in, and, at the table, erase the name of Jonathan Elford, esq. a member of this House, out of the return made by John Metcalf and Alexander Ward, esquires, two of the justices of the peace for the said county, of such persons as have been summoned by them to take the oaths, and who have neglected and refused so to do.

"And Mr. Hardesty was called in; and, at the table, erased out the name of Jonathan Elford accordingly.

14 Nov. 1640, 2 vol. p. 29. "Ordered, That a warrant shall issue, under Mr. Speaker's hand, to all mayors, justices of peace, bailiffs, sheriffs, constables, and other his majesty's officers of this kingdom, requiring them to be assistant to the bearer or bearers of the warrant of this House, for the bringing in safe custody, sir G. Radcliffe to this House, for the better and more effectual execution of his or their said warrant."

January 11th, 1641, vol. 2, p. 371. "Ordered, That, in the execution of the warrant of this House for the apprehending of sir Basil Brooke, the Serjeant at Arms attending this House, his deputy or deputies, do require the assistance of all sheriffs, justices of peace, constables, and other officers, for the apprehending of the said sir Basil Brooke; and to use all possible diligence herein."

21 December 1660, vol. 8, p. 222. "This House having formerly issued an order for the Serjeant at Arms, &c. to send for in custody William Nabbs and Mr. Maurice Tompson, for violating the privilege of this House, in the case of sir Francis Lawley; and being informed that the said Nabbs withdraws himself; and that the Serjeant's deputies, who had in charge the warrant as to Mr. Tompson, were denied admittance to him; and that slighting and contemptuous words were given touching the warrant; the said deputies were called in to the bar of this House, and examined; viz. Walter Curtis, and Simon Lowen.

"Resolved, That Mr. Maurice Tompson be sent for, in custody, as a delinquent; and that the Serjeant at Arms be

empowered to break open Mr. Tompson's house in case of resistance, and also to bring in custody all such as shall make opposition therein; and he is to call to his assistance the sheriff of Middlesex, and all other officers as he shall see cause, who are required to assist him accordingly."

January 24, 1670, vol. 9, p. 193. "Information being given of a very high contempt and misdemeanor committed against the House, by assaulting and beating George Dudley, deputy to the Serjeant at Arms, and rescuing out of his custody Thomas Parsons, &c.

"Which misdemeanor and rescue, the said Dudley did testify, was committed by Mr. John Cox, under sheriff of the county of Gloucester, and his bailiff and others.

"Resolved, That the Serjeant at Arms attending this House, or such deputy or deputies as he shall appoint, do apprehend and take into custody Mr. John Cox, under sheriff of the county of Gloucester, William Forder, &c. &c. &c.

"And the high sheriff of the county of Gloucester, and other officers concerned, are to be required by warrant from Mr. Speaker, to be aiding and assisting in the execution of such warrant."

Vide also—Topham, as before, June 4, 1675, P. M.

26 February, 1701, vol. 13, p. 767. "Resolved, That to assert the House of Commons have no power of commitment, but of their own members, tends to the subversion of the constitution of the House of Commons."

The Report being read, the House burst out into a roar of laughter at the impotency of the conclusion.

Mr. *Burke*, with infinite humour, ridiculed the whole proceeding: he concluded with a story of some mice who held a consultation what to do with a cat that tormented them; they voted that the cat should be tied up, to prevent her depredations for the future, but unfortunately forgot how to tie her up. This was our present situation; J. Miller and J. Wilkes were still at liberty; the Committee advise us to take up J. Miller, but unfortunately forgot to tell us how we can follow their advice.

Mr. *Whitworth*, in a ludicrous manner, made a motion, "That the thanks of this House be given to the gentlemen of the Select Committee, appointed upon the 27th of March last, to examine into the several Facts and Circumstances relative

to the late Obstructions to the execution of the Orders of this House, and to consider what further proceedings may be requisite to enforce a due obedience thereto; and to report their proceedings, together with their opinion, from time to time, to the House; for the judicious and effectual means they have chosen, for enforcing due obedience to the orders of this House, and for advising this House to apprehend J. Miller."

This was seconded by sir Robert Clayton, in a manner equally ludicrous.

Though the words of the thanks in the motion were decent, yet the manner in which it was made appeared so ridiculous, that lord North moved an adjournment. He observed, that parliament had vindicated its authority by imprisoning two magistrates; and that the Committee had confirmed by their Report, the power the House had always claimed of asserting its privileges and punishing the breaches of them. That nine judges had also given their testimony to the legality of the proceedings of the House, by refusing, on the Habeas Corpus, to set the magistrates at liberty.

Sir G. Savile spoke very feelingly of the contemptible situation the House had brought itself into; insulted in every news-paper, used in the most opprobrious manner in the various addresses to the magistrates in the Tower, and unable to vindicate its authority on those who had so vilified it. He observed, that the means used to draw the House out of this disgrace were equally injudicious and ridiculous; that the appointing a committee by a ballot, in which treasury lists of names had been sent to all the partisans of administration, was such a mockery as rather sunk the House deeper in the opinion of even the well-wishers to parliament; that another committee had been appointed on the motion of Mr. Wedderburn, to examine into the causes of the riots; that he had laid a heavy accusation against the magistrates of the city of London, for hiring the mobs: if this Committee had found them to be true, they ought, in justice to parliament, to have informed the House of it; if the accused were innocent, the Committee, in justice to them, should have acquitted them.

Mr. C. Fox vindicated the manner of sending treasury lists to their friends, who to ballot for; that it was always necessary for administration to do so on all occasions.

This met with a good deal of reproof

from Mr. T. Townshend and from several other members.

Mr. Sawbridge said he would thank the Committee, for that being so appointed by administration, and being appointed to do mischief, yet they had been so very mild and harmless, that they had by no means fulfilled the intention of those who had appointed them.

He was called to order; but on appealing to the Speaker, the Speaker told him, that he might undoubtedly, for argument, say, that the ministry had virtually, substantially and really appointed the Committee, though it was the act of the House.

Sir C. Wray accused the minister of using unparliamentary abuse, in speaking of a small faction, &c. He was called to order; but several gentlemen vindicated him, as he had only argued on the distinction made by the Speaker. Several other gentlemen, on both sides, spoke shortly on the adjournment, which was carried.

*Debate in the Lords on a Motion to expunge the Resolution concerning the Middlesex Election.**] April 30. The order of the day being read,

The Duke of Richmond said :

My lords; I hold it to be an indisputable principle of the constitution, that the Peers are not invested with their powers and privileges for their sole benefit, but that they possess them as trusts, which they are to use for the general good. You are constituted a distinct branch of the legislature, for the purpose of checking every undue exertion of power, every irregular excursion of the other two branches beyond the proper bounds of their authority. And it very ill becomes you to sit with your arms folded, and to look on with a listless indifference, when you see the whole nation alarmed for the first and most important of their rights, I mean the right of election. On such an occasion, it is certainly our duty to step forward, and to aid the honest efforts of the people. What, then, shall we say to a Resolution, by which you declared, that to impeach, directly or indirectly, a judgment of the lower House, in a matter where their jurisdiction is competent, final and conclusive, is a violation of the constitutional rights of the Commons, tends to

* From the London Museum.

make a breach between the two Houses, and leads to a general confusion? By this Resolution we absolutely relinquish every kind of controul over the Commons, in matters of the utmost consequence; in matters, on which the very being of the constitution depends. In matters of election, the jurisdiction of the Commons are said to be competent, final, and conclusive. Suppose then, that they should alter the whole law of election, transfer the right of freeholders to copyholders or leaseholders, or totally annihilate those rights by an arbitrary declaration. Suppose that they should change the constitutions of cities and boroughs with regard to their elections, and reverse not only all their franchises of voting by the common law, but also trample upon all the sanctions of parliamentary acts made for declaring and securing the rights of election. Suppose, I say, all these things to happen; yet in that critical emergency, the people are by this Resolution precluded from all hopes of relief from the direct or indirect interferences of this House. What monstrous consequences! Their absurdity shews the absurdity of the Resolution. If the King, upon any future occasion of this nature, should stand in need of our advice, we cannot exert our ancient and undoubted right of acting as hereditary counsel to the crown. The studied latitude of the words, 'directly or indirectly,' shuts our mouth. Nor is this the only bad consequence; when any unfortunate quarrel happens between the Commons and their constituents, our hands are tied; we must not interpose our amicable and healing mediation; so that the difference may run to extremities fatal to the Commons, fatal to the constitution and the nation. Does the House of Commons admit a correspondent immunity on your part? They have not yet declared this; and yet it is a matter of too great moment to be taken for granted, nor do I wish to see it ever granted to either House.

If you proceed thus to crouch to the Commons, and to humble yourselves before the Crown, you will become as contemptible as the Lords of Charles: you will lose all authority, and cease to have any weight in the scale of government. For what purpose was the legislature divided into separate branches? In order to be a check upon each other. Why, then, do you not exert this power? None can believe that you pay any attention to the welfare of the nation, when you are so regardless of your

own dignity and honour. You must be sensible that your acts cannot be valid, when the people are not truly represented. A legal House of Commons is as necessary in this respect as a legal king. Is it not therefore prudent to consult the Journals upon this head, and see whether we have the sanction of our ancestors? You cannot have yet forgot the clandestine and surreptitious manner in which this Resolution was proposed and carried. Though the Resolution was new in matter, wide in extent, weighty in importance, and involved in law and parliamentary precedent, it was moved at midnight, and after the House had been spent with the fatigue of a former debate;* though only an adjournment of two days for consulting the Journals was asked, it was refused, and an immediate division urged. Did not these circumstances sufficiently mark the opinion of the movers upon the merits of their own proposition? They knew that precedent, as well as argument, was against them; and therefore they endeavoured to suppress all argumentation and fair discussion, and to make the deliberations of the House degenerate into silent votes; proceedings as unjust, as unparliamentary and unconstitutional. For these reasons, we ought, not only as peers, but as Englishmen and freemen, two names which ought to be dearer to us than any titles, to reverse a Resolution utterly subversive of the dignity and authority of this House, injurious to the collective body of the people, and to the crown; to the crown, to which we owe our advice upon every public emergency; a Resolution by law unconstitutional, in precedent not only unauthorised but contradicted, in tendency ruinous, in the time and manner of obtaining it unfair and surreptitious. Accordingly I move, "That the Resolution of this House of the 2d of February 1770, 'That any Resolution of this House directly or indirectly impeaching a judgment of the House of Commons, in a matter where their jurisdiction is competent, final, and conclusive, would be a violation of the constitutional rights of the Commons, tends to make a breach between the two Houses of Parliament, and leads to general confusion,' be expunged."

The Earl of Chatham:

My lords; the present question has

* See vol. 16, p. 323.

been so frequently agitated, and is so perfectly understood, that it may seem superfluous to enter into the discussion of it on this occasion. The public has certainly formed its opinion, and condemned the decision of the two Houses. That circumstance alone is to me a sufficient motive for refreshing your lordships' memories, and for making one attempt more to procure justice to the injured electors of Great Britain.

My lords; it will be said, that this step will create divisions between the two Houses, at a time which calls for the most perfect unanimity. Unanimity in the two Houses is certainly very commendable, when both adhere to the principles of the constitution; but in the case of the Middlesex election, the Commons have daringly violated the laws of the land; and it becomes us not to remain tame spectators of such a deed, if we would not be deemed accessory to their guilt, if we would not be branded with treason to our country, which now loudly calls for our assistance. Remove but this Resolution, which my noble friend has demonstrated to be unconstitutional and absurd, and we have an undoubted right to take this step. We have precedent on our side. Our forefathers exercised this right in the case of Ashby and White, and received the applauses of the whole nation. It is ridiculous to pretend, that, by this act, we shall commit a breach of privilege. The Commons can have no privilege by which they are authorised to break the laws. Whenever they forget themselves, and commit such an outrage, we must step forward, and check their usurpation. Their jurisdiction can in no instance be so competent, final, and exclusive as to prevent us from exerting ourselves in support of the constitution. We are the natural, the constitutional balance to their encroachments. If this be not the case, why, in the name of wonder, were the three estates constituted? Why is our concurrence necessary to establish the validity of statutes?

My lords, this point is so evident, that it may be left to the decision of the rawest school boy. If, then, we must concern ourselves in the making of every law, how much more are we bound to interest ourselves in preserving the very essence of the constitution, in preserving that right which is antecedent to all laws, the right of election? But lord Middlesex and lord Bacon were expelled and incapacitated by this

House, without any opposition from the other branches of the legislature. They were so; but both were cases that only respected themselves, and consequently could not, with any propriety, come under the consideration of any other branch. In the case of Wilkes, I do not complain so much of the personal injury, as the violation of the rights of the people, who are grossly abused and betrayed by their representatives. The cases, then, being as widely different as north and south, the argument founded on them becomes utterly inconclusive.

But let us allow you a succedaneum to your argument; let us suppose that the authority which gives a seat to a peer, is as respectable as that which confers it on a commoner, and that both authorities are equally affronted by expulsion and incapacitation. Yet still the comparison will not hold; since these lords received no fresh title by birth or patent, and therefore could not claim a seat after the first expulsion. Wilkes may, perhaps, complain that he was unjustly expelled; but the chief subject of the nation's complaint is, that he was rejected after his re-election. Had not this event taken place, prescription might have rendered the first expulsion valid. If you ask who should be more tenacious than the Commons themselves of their privileges, I answer, that none should be so ready to protect them; and it is sincerely to be lamented, that, by their recent conduct, they have so far forgot their duty, as to add to the long list of venality, from Esau down to the present day; though, if we consider matters in their true light, it is the privileges of their constituents that they have betrayed. Having now set up a separate and independent authority, they would acquire, and you would grant them, a new privilege, that of selling their constituents.

If you desire to know how this doctrine came to be broached, I must beg leave to acquaint you, that it is as old, nay older than the constitution; the liberty of the people being the first thing for which provision is made in the original institution of government. Though, in the case of Wilkes, we have not many instances to prove the contested right, yet it is by no means the less constitutional: nay, it is the more so, that there are no parallel cases in our history: as this circumstance proves that it was never before questioned. The infrequency of the phenomenon may, indeed, like a comet in the

firmament, dazzle the vulgar and untutored: but the statesman, versed in political science, it affects no more than the common appearance, its course being equally simple and intelligible.

Some have attempted to be very exact in calculating the proportion which the petitioners bear to those who have remained quiet: but they have been unfortunate in one circumstance, of which the omission overturns their whole system. They have compared the number of counties, not the number of their inhabitants. They have forgot that they are not all equally populous, and that the fifteen petitioning counties contain more people than all the rest of the kingdom, as they pay infinitely more land tax. And were they not the more numerous of the two parties, yet the superiority of their wealth entitles them to more consideration than other counties; for the share of the national burdens, which any part of the kingdom bears, is the only rule by which we can judge of the weight that it ought to have in the political balance. The reasoning is founded on the supposition that they entertain sentiments different from one another. But who does not see that the rest only wanted leaders to rouse them to action? Were the case otherwise, leaders were not wanting to excite them to present Addresses; and they would certainly have presented them, had they disapproved of the petitions. After considering the vast influence of the crown, we may be justly surprised that fifteen counties had the virtue to assert their rights, and the remainder independence enough not to counteract them. But, were the majority clearly on your side, you ought to remember that numbers do not constitute right, and that, if no more than one had petitioned, that one ought to be heard, and to have its cause tried, and adjudged by the laws of the land.

My lords; this much I thought necessary to say on this head, in order to shew you the necessity of rescinding the Resolution on which the present motion is founded. Till it is complied with, we can take no step towards the removal of the present discontents; and I should imagine that this single consideration would be sufficient to induce all honest men to vote for the noble lord's proposition.

The ministers made no reply. The question was put, and the motion was negatived.

*Lord Chatham's Speech on moving an Address to the King to dissolve the Parliament.**] May 1. The order of the day being read for the Lords to be summoned,

The Earl of Chatham rose and said:

My lords; it is not many years since this nation was the envy and terror of its neighbours. Alone and unassisted it seemed to balance the half of Europe. Nor was the aspect of its affairs abroad more flattering than at home. Concord and unanimity prevailed throughout the whole extent of the British empire. Whatever heats and animosities might subsist between the grandees, the body of the people was satisfied. No complaints, no murmurs, were heard. No petitions, much less remonstrances, for redress of grievances, were carried up to the throne; nor were hired mobs necessary to keep the sovereign in countenance by their venal shouts. Nothing was heard on every side but one general burst of acclamation and joy. But how is the prospect darkened! How are the mighty fallen! On public days the royal ears are saluted with hisses and hoots; and he sees libels against his person and government written with impunity; juries solemnly acquitting the publishers. What greater mortification can befall a monarch! Yet this sacrifice he makes to his ministers. To their false steps, not to his own, he owes his disgrace. By their intrigues, the last inglorious peace, the origin of our evils, was effected, and approved by parliament, though it was loudly condemned by the nation. By their intrigues the last shameful convention received the same sanction.

My lords; were this sacrifice of our honour and interest abroad compensated by the wisdom of our domestic government, it would be some comfort. But the fact is, that Great Britain, Ireland, and America, are equally dissatisfied, and have reason to be dissatisfied, with the ministry. The impolitic taxes laid upon America, and the system of violence there adopted, have unfortunately soured the minds of the people, and rendered them disaffected to the present parliament, if not to the King. Ireland has various reasons to complain. An enumeration of them would be tedious. You may judge of their number and magnitude by the present flame. The measures taken to carry the Middlesex election in favour

* Political Register—Gentleman's Magazine.

of the court; the decision of that election; the murders of St. George's-fields; the refusal of the Commons to enquire into these murders, and into the conduct of those who advised his Majesty to bestow thanks and rewards upon the persons immediately concerned; the payment of the immense debt contracted by the crown, without inspecting any account; all these circumstances had justly alarmed the nation, and made them uncommonly attentive to the operations of parliament. Hence the publication of the parliamentary debates. And where was the injury, if the members acted upon honest principles? For a public assembly to be afraid of having their deliberations published, is monstrous, and speaks for itself. No mortal can construe such a procedure to their advantage: it, and the practice of locking the doors, are sufficient to open the eyes of the blind; they must see that all is not well within.

Not satisfied, however, with shutting their doors, the Commons would overturn the liberty of the press. The printers had spirit, and resisted. The irritated Commons exerted their privilege above the laws of the land, and their servants acted illegally in the execution of their illegal orders. The magistrates of London undertook the cause of the printers, and the protection of the laws, and of the city's franchises. The Commons still proceeded with the same outrageous violence. They called upon the magistrates to justify their conduct, and would not suffer them to be heard by counsel. These men, who had allowed the prostitute electors of Shoreham counsel to defend a bargain to sell their borough by auction, would not grant the same indulgence to the lord mayor of London, pleading for the laws of England, and the conscientious discharge of his duty. Accordingly they committed him to the Tower for not violating his oath. The most sacred obligation of morality and religion they voted criminal, when it happened to stand in competition with their assumed privileges.—Their next step was the act of a mob, and not of a parliament.—I mean the recognizance entered at Guildhall. We have heard of such violence committed by the French king; and it seems much better calculated for the latitude of Paris than of London. The people of this kingdom will never submit to such bare-faced tyranny. They must see that it is time to rouse, when their own creatures dare to assume a power of

stopping prosecutions by their vote, and consequently of resolving the law of the land into their will and pleasure. The imprudence, and indeed the absolute madness of these measures demonstrates not the result of that assembly's calm, unbiassed deliberations, but the dictates of weak, uninformed ministers, influenced by those who mislead the sovereign. It is impossible that a grave, and once venerable body of men, if left to itself, should have converted government into a scuffle with a single individual. Were the Commons not absolute slaves to the man who holds the golden keys of the Treasury, they could never have rendered the very name of parliament ridiculous, by carrying on a constant war against Mr. Wilkes. To them it is entirely owing that he is become a person of consequence in the state. They first made him representative for Middlesex, and then alderman of London. Now they seem determined to make him sheriff, and in due course, lord mayor. When he set their authority at defiance, in the case of the printers, they repeatedly declared him amenable to their jurisdiction, and actually served him with more than one order to attend. Upon being found refractory, they shamefully gave up the point; after punishing the chief magistrate of the city, they suffered him to escape with impunity, and, in the face of the world, acknowledged him to be their lord and master.

My lords; matters being thus circumstanced, the Commons being both odious and contemptible, there remains but one possible remedy for the evil. In order to save the name and institution of parliament from ruin, the Commons must, according to the earnest request of a majority of the electors of England, and the wish of almost all the nation, be dissolved. This step may restore good humour and tranquillity on the one hand, and good government on the other. Not that I imagine this act alone sufficient. No; I have no such sanguine expectation; I suspect it will prove but a temporary and partial remedy. The influence of the crown is become so enormous, that some stronger bulwark must be erected for the defence of the constitution. The Act for constituting septennial parliaments must be repealed. Formerly the inconveniences attending short parliaments had great weight with me; but now we are not debating upon a question of convenience: our all is at stake: our whole constitution is giving

way; and therefore, with the most deliberate and solemn conviction, I declare myself a convert to triennial parliaments.* Influenced by all these considerations, I move your lordships, "That an humble Address be presented to his Majesty, most dutifully and earnestly beseeching his Majesty, that, under the late violations of the rights of the electors of Great Britain, in the election for Middlesex, still undressed, and in the present conflict which has so unhappily arisen between the claims of privilege of the House of Commons on one side, and those of magistracy on the other, his Majesty will, in his paternal wisdom, deign to open the way to com-

* At a common council holden in the chamber of the Guildhall of the city of London, on Friday the 7th of April, 1780: a member presented to the court an extract of a Letter from the late earl of Chatham to the late earl Temple, dated April 17, 1771, which was read, and ordered to be entered in the Journals of the court, as follows:

"Allow a speculator, in a great chair, to add, that a plan for more equal representation, by additional knights of the shire, seems highly seasonable; and to shorten the duration of parliament not less so. If your lordship should approve, could lord Lyttelton's caution be brought to taste those ideas, we should take possession of strong ground, let who will decline to follow us. One line of men, I am assured, will zealously support, and a respectable weight of law. 'Si quid novisti rectius istis candidus imperti.'"

Signed by order of the Court. RIX.

Another anecdote of lord Chatham upon this subject is given by the earl of Buchan, in his character of Thomson, the poet:

"The highest encomium of Thomson is to be given him on account of his attachment to the cause of civil and political liberty. A free constitution of government, or what I would beg leave to call the autocracy of the people, is the panacea of moral diseases; and after having been sought for in vain for ages, has been discovered in the bosom of truth, and at the feet of philosophy; the printing-press has been the dispensary, and half the world have been voluntary patients of the healing remedy.

"Eighteen years after Thomson's death, the late lord Chatham agreed with me in making this remark; and when I said, 'But, Sir, what will become of poor England, that doats on the imperfections of her pretended constitution?' he replied, 'My dear lord, the gout will dispose of me soon enough to prevent me from feeling the consequences of this infatuation. But before the end of this century either the parliament will reform itself from within, or be reformed with a vengeance from without.'"

pose this alarming warfare; and that, in order to prevent the said House and the nation from being involved in intemperate discussions of undefined powers, which, in the extreme, may endanger the constitution, and tend to shake the tranquillity of the kingdom, his Majesty will be graciously pleased to recur to the recent sense of his people, by dissolving, after the end of this session, the present parliament, and calling, with convenient dispatch, a new parliament:"

After long debate, the question was put thereupon, and resolved in the negative, by 72 against 23.

Report of the Committee of the House of Commons respecting the Riots and Tumults in the Avenues leading to the House.]

May 8. Mr. Seymour reported from the Committee, appointed, upon the 28th of March last, to enquire into the Causes and Occasions of the Riots and Tumults of the persons who assembled on several days, in the Avenues leading to this House, and attacked the persons of the members coming to attend their duty in parliament; that the Committee had enquired accordingly, and had directed him to report a State of the Evidence to the House; and he read the Report in his place; and afterwards delivered it in at the Clerk's table; where the same was read; and is as followeth;

"Saunders Welch, esq. a justice of the peace, said, he attended at the House, on Wednesday the 27th of March, when the mob was very disorderly, hooting and applauding the members alternately—that he attentively examined the mob, but did not know any one person; from whence he conjectures that they came from the eastern part of the town—that there appeared to be management in their disposition, being drawn up 8 or 10 deep; and the pelting came from those in the hindermost ranks, who were concealed by the persons in front—that the magistrates made use of both threats and persuasions to disperse the mob, but without any effect; nor was any impression made, till some gentlemen came down with the sheriffs; upon whose interposition great numbers of the mob went away, and all was tolerable quiet during the remainder of the day—that he saw no other act of violence but pelting with dirt, nor observed any person particularly active, except a tall man in white, and a short man dressed in blue, who appeared to

be directors of the mob; but they stood in a place where it was almost impossible to come at them—that one man was taken up on the steps of the court of King's-bench, who was brought afterwards to Guildhall, and committed to the Gate-house. That he thinks four fifths of them went away when the sheriffs came down; but that he did not see any particular signal for their departure. That he knows of no liquor or provisions carried to the mob; but there was some bread and cheese and beer given to the constables. That there are but 80 constables for the city and liberty of Westminster, who are appointed by the deputy high steward and burgesses; and that people of the better sort usually hire men of mean condition to officiate for them—that he thinks the number of constables insufficient; and that it is impossible to collect the whole number together; but it would be more easy to collect them, if they were not suffered to hire deputies. That there was an execution at Tyburn on the 27th of March, which he looked upon as an unfortunate circumstance, many of the mob coming from thence to Westminster—that the constables came likewise from Tyburn, and complained of the hardness of their duty; and that he thinks an additional number of constables will tend to the preservation of the peace.

“*Charles Marsh, esq.* another justice of the peace, confirmed the evidence of Mr. Welch, except that he said, he could not observe any thing like discipline among the mob. And, *William Keeling, esq.* confirmed Mr. Welch's evidence in every particular.

“*Mr. Sampson Rainsford*, high constable of Westminster, said, That he attended the House on the days above mentioned; and confirmed the above evidence, in regard to the riotous proceedings of the mob: and added, that seeing a great bustle, he enquired the cause, and was informed that the mob were using lord North ill—that he went up with his silver staff, and found lord North on one knee; and saw much dirt thrown at his carriage—that he went to his assistance, and the door being opened, lord North got into a room; but that he was too anxious for his preservation to make any observation of particular persons—that one man was taken who had struck two constables—that the mob was very outrageous, and threatened to pull down the house, if the prisoner was not delivered to them; not-

withstanding which, he was committed to the Gate-house, and afterwards bailed—that he saw no violence offered to any member but lord North; and that one Housely was apprehended for having a piece of lord North's hat, but afterwards discharged; and one Manning, a shoemaker, is now in prison, but does not know any particular fact. That he made it the object of his attention to find out if the mob were under the discipline of any particular leaders, but could see nothing like it; and thinks he should have discovered it, had there been any such thing—that the hissings and shouts were general, from whence he presumes the members' names were told by somebody; but he saw no signal. That he had no reason to think, from any thing that occurred before, at, or after, the riots, that any magistrate of the city of London was directly or indirectly concerned in procuring or abetting the riots, but entirely the reverse—that Mr. Martin and Mr. Baker, the two sheriffs, appeared to be exceedingly concerned for the riot, and together with some members of the House, applied to the magistrates for more peace officers—that Mr. Welch was of opinion no more could be made; but the witness was of a contrary opinion; in support of which, he instanced sir John Fielding having short staves in his custody for occasional constables: upon which the sheriff said, If you'll procure us some good men, we will take upon us to make peace officers; and twelve or fourteen men were appointed accordingly—that the sheriffs used every method in their power to dissuade the mob from violence—that Mr. Baker expostulated with them in the midst of the crowd, and used every argument with them to disperse, as well by kind invitations, as by representing their proceedings disagreeable to all order, and contrary to law. That the witness, neither before nor since this affair, knows any thing of any means used for procuring this mob—that he saw no provisions or drink given to the mob; and that he had since ordered the constables in the neighbourhood to enquire if any houses had been opened for their entertainment, and was informed they could not find that any such thing had been done; and that all the provisions he saw was some which he ordered for the refreshment of the constables.

“*David Wilmot, esq.* justice of the peace for the county of Middlesex, informed your Committee, that one Daniel

Clarke, a weaver, came to his house about 12 o'clock at night, on Tuesday the 26th of March, and told his servant that 500 people would appear the next day at the House of Commons with fire arms—that he did not get up, because he did not believe the man; but, on going to the coffee-house next morning, he found hand bills delivered, acquainting the public, that the lord mayor was to come that day to the House; upon which he went to lord Rochford's office, acquainted his lordship with what he had heard: but added, that he gave no credit to the man; from thence he came to the Guildhall at Westminster, where he found the rest of the magistrates attending—that a great mob assembled, and he saw a carriage drawn without horses, and was told alderman Wilkes was in it; that he saw a tall man in a white coat, who seemed very active, jumping about in the mob, but knows neither his name or person—that, afterwards, in the Palace-yard, he saw this man again, and observed, when he waved his hat, stones were thrown from behind, but none from the front—that the man's coat was bad, but that the witness observed, his linen appeared better than was suitable to his outward appearance; that he was within four or five yards of him; that he waved his hat three times, and stones and gravel were thrown from behind at each time; at first, a very small quantity, but that the most was thrown at the last signal—that he saw no stones thrown before he waved his hat, nor heard him speak, except that being asked what he wanted?—he said *Damn you, we want our lord mayor.*

“Being asked, why he did not tell the justices at the Guildhall of the information he had received the night before?—he said, he did not believe it, and was unwilling to give an alarm—and being asked, why, in the first instance he chose to alarm a secretary of state, and not afterwards to mention it to his brother justices?—he said, sir John Fielding, being chairman, and hearing no reports had been made at lord Rochford's office, he mentioned it only to Mr. Keeling, a justice of peace, who thought it better to give no alarm.

“Having said, that, in his opinion, the man in the white coat, before-mentioned, was criminal to a certain degree in this riot; he was asked, why he did not apprehend him, when he was near enough to him to distinguish his linen?—he said, it was impossible to get near enough to him; and that they looked upon it that their

lives were in danger—that he looked upon this mob as differently constituted from any other he had seen, as they pelted upon this man's waving his hat; that the third waving was a general signal, and the justices then came directly in—that he was a tall man; but that a short man in a mob could not see him wave his hat; but his only reason for thinking it a disciplined mob, was the behaviour of this man. That he heard the carriage, without horses, was alderman Wilkes's; but he saw nobody in the carriage, nor saw any thing particular in regard to the lord mayor's coach. That when the sheriffs and gentlemen came from the House of Commons, they dispersed the mob; and he did not observe them to be afraid of their persons—and that they were not pelted.

Being asked, whether their attempting to read the Riot Act, was not the occasion of the mob throwing stones?—he said, they threw stones before it was attempted to be read—that he believes it was after the second volley of stones that the Act was attempted to be read, whereupon the mob threw more stones, and the magistrates went in—that he thinks the threatening to read the Riot Act, an unlikely method to quiet the people; and wishes it were otherwise.

“Being asked, whether the alarm for their magistrates might not be a reason for the people coming down?—he said, he thought the printed bills brought many down; and he looked upon it to be a designed mob, by the appearance of this tall man.

“Being asked, why the justices and constables, looking upon this man as the capital offender, took no methods to find out his name, by dogging him, or in any other manner?—he said, they enquired among the officers, who said, they had seen him, but did not know any thing of him—that it was certainly the duty of a justice of peace, or constable, to seize this man; and that Mr. Keeling and the witness had designed to do it, but would not speak to the constables for fear of having it divulged; but sir William Stevenson's carriage drawing up, a confusion ensued, the man withdrew, and he never saw him afterwards—that from the time of his first observing this man to be active, to his first waving his hat, might be five minutes—that if they had taken hold of him before the pelting began, he believes they should have risked their lives; but it is certainly the duty of a magistrate to risk his life

upon such an occasion; and Mr. Keeling and the witness had determined to seize him, and should have done it, but for sir William Stevenson's carriage coming up—that he has certainly no reason to apprehend, that any magistrate of the city of London, or other person, were concerned in encouraging these riots, except it was true that alderman Wilkes was drawn down without horses; which he thinks caused the mob—that he was not in Palace-yard before alderman Wilkes's carriage appeared, nor does he know whether he set out from the Mansion-house without horses.

“Your Committee then proceeded to examine into the dispersion of the hand-bills: and

“*Anthony Wrangham* a stationer, who disperses news-papers, being examined, said, he knew nothing of the distribution of hand bills.

“*Rice Williams*, newsman in Russel-street, Covent-garden, said, he saw a hand bill in his shop; but he was sure none were dispersed in his papers, because he folded them all up, and delivered them himself; and he enquired of his servants, whether any body had been there to put in any bills, and they said nobody had.

“*Edward Langaridge*, a porter at the Temple gate, said, that he had about 200 hand bills to attend my lord mayor upon his return—that he does not know the man from whom he received them—that he met him in St. Paul's church-yard, and gave him two shillings for delivering them; which he did to any body he met: that he has seen the man since, but had no conversation with him—that he was a thin man, appeared in a good plain dress of second mourning.

“*John Stevens*, a Temple porter, said, that he only delivered hand bills, the 29th of March, for the London Packet, and no other.

“*Mr. John Jackson*, a constable, said, he attended the House of Commons on the 25th of March, and was the person who Michael Keys struck, who was afterwards apprehended by one of the constables, and carried into the lobby, and then to the Guildhall—that the witness took no notice of Keys when he struck him, but striking another constable, he was then taken into custody; but knows nothing of any ringleader.

“*William Lawrence*, a constable, said, that attending his duty, on the day lord North was assaulted, a man struck a constable; upon which the witness said, why

don't you take him into custody? upon which he struck the witness, who upon that took him into custody; but he knows nothing of any ringleader.

“*Peter Senhouse*, a constable of Covent-garden parish, said, he attended the parliament house on the 28th of March, when his Majesty came to the House of Peers—that they took a man into custody about two o'clock, in Parliament-street, for crying out, “No Lord Mayor, no King,” while his Majesty was passing by—that they took him before sir John Fielding, and the witness indicted him at the last quarter session, but the Bill was not found—that he laid no other charge against him than that of making a noise, and hissing the King; and he did not perceive any person particularly active in the mob.”

A motion was made, and the question being proposed, that the said Report be printed: and a debate arising in the House thereupon; Ordered, That the said debate be adjourned for half an hour.—But before the half hour was expired the House was commanded by the Usher of the Black Rod to attend in the House of Peers to hear the King's Speech.

The King's Speech at the Close of the Session.] May 8. The King came to the House of Peers, and put an end to the Session with the following Speech to both Houses:

“My Lords, and Gentlemen;

“As the state of public business no longer requires your attendance, I think it right, at this season of the year, to put an end to the present session of parliament.

“The satisfaction I have obtained from his Catholic majesty, for the injury I had received, together with the proofs which the courts of France and Spain have given me, by laying aside their armaments, of their sincere disposition to preserve the general tranquillity of Europe, have enabled me to reduce my forces by sea and land.

“The zeal with which you have exerted yourselves upon apprehension of a rupture with Spain, must convince the world of your affectionate attachment to me, and of your constant regard for the true interests of your country: on that support I shall always rely for the defence of my honour, and for the security of the rights of my people.

“With regard to the troubles which still agitate some parts of the continent, my

endeavours have never been wanting to bring them to an end; and in those endeavours you may be assured I shall persevere.

"Gentlemen of the House of Commons;

"It was with real concern that I found myself called upon by the situation of public affairs, to ask of my faithful Commons more than ordinary supplies for the service of the current year; and I cannot sufficiently thank you for the unanimity, cheerfulness, and public spirit, with which they have been granted.

"My Lords, and Gentlemen;

"While we acknowledge the goodness of Divine Providence in preserving us from those calamities with which some parts of Europe have been afflicted, let me exhort you to employ your best endeavours in your several stations and countries, to render the national happiness complete, by discouraging and suppressing all groundless suspicions and domestic disturbances. I have no other object, and I can have no other interest, than to reign in the hearts of a free and happy people; and it is my earnest wish, that my subjects may not be prevented, by any mistakes or animosities amongst themselves, from enjoying, in the fullest extent, the blessings of a mild and legal government. The support of our excellent constitution is our common duty and interest. By that standard I would wish my people to try all public principles and professions, and to look upon those as their most dangerous enemies, who, under any pretence whatsoever, would persuade them to violate those laws, and undermine that authority which the constitution has provided for the purpose of preserving the general liberty and happiness."

The parliament was then prorogued to the 23rd of July; and was afterwards further prorogued to the 21st of January 1772.*

* "During the recess, the city had recourse to the accustomed measure of addressing and petitioning the throne. Their intention being announced, the lord chamberlain wrote to the lord mayor, informing him the livery could not be permitted to attend him to St. James's; and copies of this letter were posted in various parts of the city, under pretence of preventing the livery from assembling. A petition was presented, couched in the same language with others which had been previously addressed to the throne; it complained of the arbitrary, audacious, illegal, and wicked proceedings of the House of Commons, in imprisoning the city

1772.

FIFTH SESSION

OF THE

THIRTEENTH PARLIAMENT

OF

GREAT BRITAIN.

The King's Speech on Opening the Session.] January 21, 1772. The King came to the House of Peers, and opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen;

"It gives me much satisfaction that nothing in the situation of our affairs, either foreign or domestic, has obliged me to require your attendance earlier than might have been consistent with your private convenience; and that now you are met together, you will find yourselves at liberty to give your whole attention to the establishment of wise and useful regulations of law, and to the extension of our commercial advantages.

"The performance of the engagement of the king of Spain, in the restitution of Port Egmont and Falkland's Island, and the repeated assurances I have received of the pacific disposition of that court, as well as of other powers, promise to my subjects the continuance of peace; and we may with the greater confidence hope that we shall not be disturbed in the enjoyment of this blessing, as there is no reason to apprehend that we shall become involved in the troubles which still unhappily prevail in one part of Europe.

"The danger of the farther spreading of the infectious sickness in Europe, is, I trust, very much abated; but I must recommend it to you not to suffer our happiness, in having been hitherto preserved from so dreadful a calamity, to lessen your

members, and procuring the Durham Yard Act; and prayed the King to give peace to the nation by a speedy dissolution of parliament, and by removing his present wicked and despotic ministers from his presence and councils for ever. The King, in answer, said, he was always ready to exert his constitutional prerogative in redressing real grievances, and the city of London should ever find him ready to listen to well-founded complaints; but he felt concern at seeing a part of his subjects still so misled and deluded, as to renew, in such reprehensible terms, a request with which he had repeatedly declared his resolution not to comply.

vigilance in the use of every reasonable precaution for our safety.

"Gentlemen of the House of Commons;

"I have ordered the estimates for the service of the current year to be laid before you; I make no doubt but you will see the propriety of maintaining a respectable establishment of my naval forces. I am pleased however to find that I shall be under no necessity of asking of you at this time any extraordinary aid.

"My Lords, and Gentlemen;

"The concerns of this country are so various and extensive as to require the most vigilant and active attention, and some of them, as well from remoteness of place as from other circumstances, are so peculiarly liable to abuses and exposed to danger, that the interposition of the legislature for their protection may become necessary: if in any such instances, either for supplying defects or remedying abuses, you shall find it requisite to provide any new laws, you may depend upon my ready concurrence in whatever may best contribute to the attainment of those salutary ends."

The Lords' Address of Thanks.] His

"Causes, which it is no longer important to ascertain, had created irreparable variances among the leaders of city politics: their public meetings were scenes of hostility, clamour, and recrimination; and the press teemed with their mutual abuse. During the confinement of the lord mayor, the ward of Farringdon strenuously recommended the election of Mr. Wilkes as sheriff, and he promised to accept the office if chosen. He thought proper to wait on Mr. Oliver, who was expected to be sheriff, and announced himself as a probable co-adjutor. The imprisoned alderman was decidedly adverse to the measure, and, after remonstrating with him for a considerable time in vain, sent a letter to Mr. Wilkes's deputy, stating the total difference of their political views, and his resolution for that, and many other reasons, not to serve the office of sheriff with Wilkes. Notwithstanding this intimation, Mr. Wilkes persevered in offering himself a candidate, and at the close of the poll, he and alderman Bull were returned by a large majority.

"During the recess, the office of Secretary of State, vacated by the death of the earl of Halifax, was conferred on the earl of Suffolk, and his place of Lord Privy Seal was accepted by the duke of Grafton. Lord Hyde succeeded, on the death of lord Strange, to the Chancellorship of the Duchy of Lancaster; but these changes made no alteration in the political system of administration." Adolphus.

Majesty having retired, the following Address was moved by the duke of Beaufort and agreed to without any debate:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne.

"Permit us, Sir, to offer to your Majesty our most dutiful congratulations on the happy event of the increase of your royal family, by the birth of another prince, and to assure your Majesty, that every addition to your Majesty's domestic happiness, must always afford the highest satisfaction to your faithful subjects.

"We beg leave to express to your Majesty our most grateful sense of your Majesty's regard for our private convenience, in not commanding us to an earlier attendance; and to declare to your Majesty our determination to give our most diligent attention to the promotion of the domestic interests of these kingdoms, and the extension of our commercial advantages, by the establishment of useful regulations of law.

"We return your Majesty our humble thanks for your goodness and condescension, in acquainting us, from the throne, with the restitution of Port Egmont and Falkland's Island, on the part of the king of Spain, and with the assurances your Majesty has received of the pacific disposition of foreign powers. We are made happy by learning that your Majesty has no reason to apprehend that the peace which we at present enjoy, will be disturbed by our being any wise involved in the calamities of war, which still unhappily prevail in one part of Europe.

"Your Majesty's paternal care, in recommending to us a due vigilance in the use of every precaution to preserve this country from that most dreadful contagion from which, under the Divine Providence, it has been hitherto our happiness to remain free, calls for our sincerest acknowledgments, and commands our utmost attention.

"We beg leave to assure your Majesty, that our most diligent endeavours shall be employed to frame such laws as shall, in our judgment, tend to supply the defects, and remedy the abuses, which may appear to have been introduced in any branch of the various and extensive concerns of this country; and we look upon your Majesty's gracious assurance of your ready concur-

rence in whatever may best contribute to the attainment of those salutary ends, as a fresh proof of that desire which has constantly been shewn by your Majesty to promote the welfare of your people."

The King's Answer.] His Majesty returned this Answer:

"My Lords;

"I thank you for this loyal and dutiful Address. I receive, with pleasure, your congratulations on the increase of my family, and the assurances of the attention you will give to those objects which I have recommended to you for the public good. Nothing can be more acceptable to me, than the sense you express of my desire to promote the welfare of my people."

The Commons' Address of Thanks.] The Commons being returned to their House,

Lord *Hinchinbrooke* rose to move an Address of Thanks. He said, that however much gentlemen might differ about the terms, none could have any objection to the first paragraph, which expressed their duty and affection to the sovereign and his royal consort, and their satisfaction at the increase of their family; that the wisdom and paternal care of the King in preserving us from the calamities of war, while at the same time he had asserted the honour and just rights of his people, demanded their highest acknowledgments; that the present state of the navy was respectable, but that from the peculiarity of his situation, he could not expatiate on the subject, and that he begged the House's pardon for having said so much. He then read the Address, which was as follows:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne.

"It is with unfeigned joy we beg leave to offer to your Majesty our congratulations on the birth of another prince, and on the happy recovery of the Queen, who is still more endeared to this nation by every new pledge of security for the happiness we enjoy under your Majesty's auspicious government, as well as by her Majesty's amiable virtues.

"We return your Majesty our warmest thanks, for your gracious communication

of the assurances your Majesty has received from the king of Spain, as well as from other powers, of their disposition to maintain the public tranquillity; and we cannot but feel the greatest satisfaction at the fair prospect which those assurances, and the performance of his Catholic majesty's engagement, by the restitution of Port Egmont and Falkland's Island, afford your Majesty's subjects of the continuance of peace: at the same time, we have the greatest confidence, that the respect derived to this nation, from the moderation and firmness of your Majesty's conduct, will continue to preserve your Majesty's dominions from the calamities of war, which still unhappily prevail in the distant parts of Europe.

"We acknowledge with gratitude your Majesty's paternal care, in the precautions your Majesty has taken to preserve this kingdom from the infectious sickness with which we have of late been alarmed; and though we have the satisfaction to find, that, by the blessing of Providence, the danger of its spreading is now diminished, we will not be negligent, on our part, in taking such measures as may, from time to time, appear best calculated to secure this nation from the visitation of so dreadful an evil.

"Your Majesty's faithful Commons will cheerfully grant to your Majesty such supplies as shall be found necessary for the service of the current year; and we will be careful to make sufficient provision for the establishment of a respectable naval force, on which, we are truly sensible, the security, as well as the importance, of this nation must ever principally depend.

"We assure your Majesty, that we will not fail, during this season of tranquillity, to employ our time in making such provisions as may be found necessary for the improvement of our laws, and the extension of our commerce: and your Majesty may rely on our vigilant and active attention to those important concerns recommended to us by your Majesty; and wherever it shall be found, that, with respect to any of these, either from the remoteness of their situation from the seat of government, or from other circumstances, such abuses prevail as expose them to danger, we shall think it our duty to endeavour, by every regulation in our power, to remedy those evils, which may, in their consequences, so essentially affect the interest and honour of this country."

Mr. *Vane* seconded the Address, saying

that the noble lord had expressed himself so fully and so justly upon them that little remained for him to add; and that, if it was not customary on these occasions to say something, he could content himself barely with seconding the motion. He then briefly recapitulated the arguments of the noble mover, declaring, that to congratulate the King on the different accounts mentioned by him was in fact to congratulate ourselves; that as we were now, through the wisdom of his Majesty, at peace with all the world, and likely to remain so, the House would have leisure to direct their attention to domestic affairs; that the malversation of the East India Company's servants called loudly for their interposition, and that he trusted they would have an opportunity of displaying their legislative wisdom in adjusting these matters. Here he run over the heads of the different charges brought against the Company and its servants. He hinted that at present the Company had not that power over their servants, to compel their orders to be obeyed; nor to prevent them from enriching themselves in an arbitrary manner at the expence of the Company, ruin to the nation, and perhaps in its consequence the entire loss of those dominions to Great Britain.

After the hon. gentleman had sat down, every body expected that some member of the opposition would rise, but nothing but silence succeeded. The Address was agreed to, and the House adjourned before four o'clock.

The King's Answer.] To the above Address the King returned this Answer:

"Gentlemen,

"I thank you very heartily for this most dutiful Address. Your affectionate congratulations on the birth of another prince, and the regard you express for the Queen, are highly acceptable to me.

"I receive with pleasure and approbation the assurances you give me of your zealous endeavours for the extension and security of the national interest and advantages.

"I have nothing so much at heart as to see my kingdoms flourishing in commerce, and my people happy under my government."

Bill for prohibiting the Exportation of Corn.] January 24. The House went into a Committee on the Act for prohibiting the exportation of Corn. Mr. Cooper

observed on it, that the present high prices made it necessary to continue the prohibition for another year; but that it was proposed to insert a clause in the Bill, to give power to parliament to make any alterations in the course of this session that might be thought necessary. A member expressed his wish, that the time of the prohibition should not extend till the next session, as then the seed time would be over, and many farmers would neglect to sow wheat from the stock in hand, and difficulty of selling, supposing a great crop next year. It was observed on this, that were the time to be shortened, it would occasion a sudden rise, especially as foreign countries, Germany particularly, had such a present deficiency: that on speculation, corn would be stored to supply them, and a scarcity here ensue, before farmers could thresh out their new crops. The resolution of continuing the Act agreed to.

Sir *W. Meredith* moved, That it might be a general order, that no bill, or clause in a bill, making any offence capital, should be agreed to but in a committee of the whole House. He observed, that at present the facility of passing such clauses was shameful: that he once passing a committee-room, when only one member was holding a committee, with a clerk's boy; he happened to hear something of hanging; he immediately had the curiosity to ask what was going forward in that small committee, that could merit such a punishment? He was answered, that it was an inclosing Bill in which a great many poor people were concerned, who opposed the Bill: that they feared those people would obstruct the execution of the Act, and therefore this clause was to make it capital felony in any one who did so.—This Resolution was unanimously agreed to.

Debate in the Commons on the Number of Seamen.] January 29. In the Committee of Supply,

Mr. *Buller*, one of the lords of the Admiralty, moved, "That 25,000 men be employed for the sea service, for the year 1772, including 6,664 marines." He contented himself with stating that the establishment in 1771, before the alarm of a war, was 16,000, including 4,000 marines: that 40,000 were voted last year; that, for the present year, an additional number of ships, more than in 1770, were destined for the East Indies, an additional number

for the Jamaica station, an addition in the Mediterranean, and that by a new arrangement the 20 guard ships kept at home were to have a greater complement of men, not only that they might be kept ready upon any emergency, but that they might be kept cruising, and not suffered to lie in port, where they were found to rot and to be consumed by the worms: that he did not pretend to account for the propriety of the different destinations, which was not his department, but supposing the destinations right, the additional number of men requisite would be 9,000, making in all 25,000, for which number he moved.

Mr. *Harvey*, another lord of the admiralty seconded the motion, and entered a little into the reasons of the destination, and amongst other things said, as a reason for the increase of force at Jamaica, that the Spaniards had a great force in these parts; that they might rendezvous at Vera Cruz, and attack Jamaica before we could send assistance; that though we kept up twenty guard ships at a great expence during the last peace, yet they were really used all the while as a job, and were totally unfit for service when we came to want them; that they were rotten and consumed in the ports by worms. And that to keep the guardships in proper order, and to supply the East Indies and Jamaica with a proper force, and to strengthen our force in some other parts, the additional number of 9,000 was necessary.

Admiral Keppel, and sir Charles Saunders, arraigned and condemned this disposition of the fleet, and opposed the increase of seamen. They observed, that in the East-Indies the force was either too great or too little; too great, if there was a probability of a permanent peace, as expressed in the King's Speech; and too little, if war: that whenever we sent any ships, the French did the same; so that, in time, each nation would have so large a navy in those seas, that it was trusting entirely to the prudence of the commander, whether or not he engaged the nation in a war: that as to Jamaica, the force there, being only about four ships, was by no means sufficient to defend it, if attacked; and as to North America, there was no enemy in those parts; and the ships, from the inclemency of the season, must be shut up for some months in the year: therefore, upon the whole, they thought that it would be better to send some ships every summer to those coun-

tries, and let them return to England in winter. And with respect to the guardships, they were of opinion, that the present system of keeping them so fully manned was wrong; in their idea, it was best to keep the ships ready, but to trust to pressing to man them.

Sir *George Savile* took notice, that the King's Speech had declared, that every thing promised the continuance of peace, and yet the present motion had the appearance of war; that it was too weak a force for war, and a great deal too much for peace; that at the same time men who wished well to the public, could not venture to give a negative to the motion, because the ministers, notwithstanding the pacific declarations of the King's Speech, might have reason to apprehend war; but if this was meant as a perpetual peace establishment, every honest man must oppose it, as being attended with a ruinous expence. That if the guardships were now allowed to be a job, and to have answered no purpose, what security could we have that they would not again be a job, only with the difference of being a much more expensive job? That this increase would no doubt give a great deal of additional influence to the first lord of the Admiralty, and would enable him to provide for all his friends in the Cinque Ports and elsewhere, who send members to parliament, and if the infamous practice of selling offices and commissions should be introduced, he would have many more things to sell; but with regard to the public, if we are to keep up a war establishment in time of peace, we must infallibly be ruined, and that it was better far to go to war, if we cannot trust our neighbours, than to waste our strength in useless inactivity. That after once introducing such a force in time of peace, no minister would venture to diminish it, nor indeed would he have the inclination, the sweets of power, and the influence arising from having so many things to give away, and the appearance of hardship in depriving persons of their commissions, were motives sufficient to prevent hereafter any diminution; and as the navy was the favourite service of England, the minister was too likely to be supported in the most extravagant propositions for its increase.

Mr. *Cornwall* observed, that the increase of seamen would cost the nation 500,000*l.* and shewed the impossibility that this increase in the establishment would ever be lessened, as no argument for

25,000 men was brought this year, which might not with equal propriety be brought every year.

Colonel *Barré* approved of the demand of men; not on the footing of a peace establishment, but as having reason to think, from the silence of the ministry in offering no argument for their present demand, that affairs did not wear that peaceable aspect they would wish the public to believe: that in Germany there appeared a disposition to war in some of the powers: that neither France nor Spain disarmed as might be expected: and he called upon the minister to give some satisfaction to the House in this matter.

Lord *North* said the armament in the East Indies was necessary, not only to cope with the French, but to be a check upon the present officers of the Company, who, for want of proper laws, disobeyed their masters, and thereby as suddenly as exorbitantly, increased their own finances; a conduct which might hazard the loss of those dominions to this kingdom, might ruin the country, and make the English hated by the people over whom they tyrannized. With regard to the condition of the fleet, he said, that in a year we should have near eighty ships of the line fit for service; a force, which, considering the goodness of our sailors, would at any time be superior to the French and Spaniards, though they might be near a hundred sail of the line.—He gave a lame and unsatisfactory account of the reasons of the present force at Jamaica; explained the new system with regard to the guard ships, but did not seem himself satisfied that this arrangement required the number of men proposed for it; said he had frequently asked that question, why more men? and that he had been told they were necessary; and that he was willing for one year to try the experiment of putting the guard-ships upon this new footing; declared that if he should be minister another year, and that circumstances were changed, he would move for a diminution of the number; that the total expence of the navy, would, he thought, this year be within two millions, notwithstanding the increase.

Mr. *Dowdeswell* observed upon the inconsistency of this augmentation with the pacific declarations of the King's Speech; that our peace expences were in all respects enormously encreased; that this was of worse consequence than an expensive war, which was only a temporary evil,

[VOL. XVII.]

but the other perpetual; that the effect of this plan had been to keep the stocks under par during this last peace, because the hopes of paying off our debts were diminished; that this method would consume us like a slow poison; that if we could not depend on the pacific dispositions of our neighbours, we ought to go to war with them, and not consume ourselves by intolerable expences in times of peace, especially as all these expences tended to create an undue influence in parliament. That the French and us were on a quite different footing, for they had resources of revenue which could enable them to carry on a war without public credit, of which they had now none, but that our force arose entirely from our public credit, which could only be supported by most attentive œconomy in times of peace, from which alone the creditors of the public could hope for their payment. That fallacious hopes had been hung out to the people by the King's Speech, when they were told that his Majesty would be under no necessity at this time of asking any extraordinary aid; that this increase of the navy might indeed be paid for at present out of the extraordinary aids granted last year with a view to an impending war, but that money was an extraordinary aid, and as it was not used it ought to have been paid to the public creditors. That as by the noble lord's speech little hopes were given of a diminution of that expence next year, a further aid must then be demanded, and must be supplied, either by taking from the sinking fund and robbing the public creditors, or by an additional tax; that this therefore appeared to be a piece of art and management to begin the augmentation, when the money granted last year for another purpose was in hand, in hopes that it would pass with less difficulty next year when some new and burdensome tax must be imposed; and that the noble lord would find himself mistaken if he thought that the expence of the navy with this augmentation would amount to no more than two millions.

Mr. *Pulteney* observed, that though it was late, and many gentlemen had spoke, yet he wished to state some matters which seemed to him material. That the additional expence of this augmentation would be at least 500,000*l.* per ann. that the sum of 4*l.* per man per month amounted, for 9,000 additional seamen, to 468,000*l.* per ann. and it was well known, that 4*l.* per man was never found sufficient; and as

[R]

there was the greatest reason to conclude that it was meant to be perpetual, this new expence was equal to contracting in time of peace a fresh debt of 17 millions sterling, as the interest of that sum at 3 per cent. would amount only to 510,000*l.* that this was a very serious matter, and however it might pass within doors, would make a proper impression without; that though he was not a sea officer, he had thought it his duty to inform himself from those who were perfectly acquainted with the subject, and on whom he could depend; that he had by their assistance made a calculation of the numbers which would be necessary in order to keep up a full and complete force in all the different stations; that in his computation he had allowed for the full number of ships proposed by the noble lord for the East Indies, and he doubted if that force ought ever to be diminished even in time of profound peace; that he had also allowed for the twenty guard-ships, in order that they might be kept cruising and out at Spithead and in deep water, without ever lying near the shore in port; that he had not allowed for the proposed additional force at Jamaica, because all who knew the service agreed, that it was an idle and unnecessary expence, neither did he allow so great a force as was proposed for North America; that after these and some other deductions, he found that all the necessary services could be amply provided for, and in particular that the East Indies could be perfectly secured, and all the intended guard-ships be kept in perfect order and in as great readiness as was proposed, and yet the number of men necessary did not exceed 17,500. That therefore an increase was demanded of 7,500 more than was necessary, which would prove a perpetual expence to this country of near 400,000*l.* per annum. That whatever pretences might be assumed, there must be some concealed reason at bottom for loading the public with such a sum; that he did not believe any more men than 17,500 would be employed, because no more was necessary, and therefore he must suppose that there was an intention to apply this money to some other purpose; that as no gentleman of more experience and weight had moved for a less number of seamen, he would not make such a motion, but thought himself called upon to state to the House the information which he had been able to collect upon so important and interesting a subject.

The question was then put, and carried, without a division.

January 31. The Report of the said Committee being brought up,

Mr. *Hawke* (son of sir Edward Hawke) said; Sir, very particular business detained me on Wednesday last, and prevented my attending till near the close of that day's debate: had I been so happy as to have taken my seat early, when the question was discussed in your Committee, I should not have troubled you on the present occasion.

I think it my duty, Sir, to rise in my place, and contradict, in the strongest manner, those scandalous and groundless accusations, which have been circulated too carefully and too freely in every public paper, in every private company, and have even been uttered indiscriminately by several members of this House. It has been reported that the situation of your marine at the conclusion of the year 1770 was totally owing to the inactivity or ignorance of the right hon. gentleman who then presided at the Board of Admiralty: it has been industriously circulated that the present alteration in your fleet is owing to a change of men, and not to a change of measures.

The noble lord, who conducts the marine department, conducts it both to his own honour, and to his country's satisfaction: I will not however acknowledge that the nation is so much indebted to the abilities of that noble lord, as his friends have declared. No, Sir, measures are changed. Had the right hon. gentleman been as well supported as the noble lord, you would not have heard any complaints of your fleet. Had every other man been as desirous of doing his duty as that right hon. gentleman, and had more liberal supplies of money been granted and assigned to the navy, your fleet would have been in a more forward situation: all things considered, it is as forward as possible; much more so than your enemies expected. The introduction of Madame de Barré to the king of France, or the dismissal of the duke de Choiseul from the French council would not otherwise have prevented your feeling their utmost united vengeance.

I hope the House will excuse my troubling them on this subject; whenever they shall choose to be fully not collaterally informed of this matter, and any gentleman will move for an enquiry into the

state of your navy, I pledge myself to second the motion: I flatter myself however that the character and conduct of the officer in question is sufficiently established, to free him from any imputation of inattention to his duty, or ignorance of his profession.

Governor *Pownall* said he agreed to the Report. He did not mean to go into any debate, but to give his reasons. These were, that the state of our affairs, instead of being all peace and tranquillity, was all danger and hostility: that we were at this very moment suffering hostilities from Spain: that there was no engagement for restoring Falkland's island; and if we had it, the ministers did not know how we came by it; nor did they know whether we had it or not. That so far from our being out of all danger of being involved in the troubles of the remote part of Europe, there was every reason to think we must necessarily be involved. He then referred to the state of affairs at Constantinople, to the present motions and designs of the king of Prussia, and to the danger which Dantzic is in.

The Resolution was agreed to.

Dr. Nowell thanked for his Sermon preached before the Commons.] January 31. Ordered, "That the thanks of this House be given to the Rev. Dr. Nowell, for the sermon by him preached yesterday before this House, at Saint Margaret's, Westminster; and that he be desired to print the same; and that sir William Dolben and Mr. Alexander Popham do acquaint him therewith."

*Debate in the Commons on the Clerical Petition, praying to be relieved from Subscription to the 39 Articles.**] February 6. Sir William Meredith, who had been

persuaded by the Clergy and others, praying for relief in the matter of Subscription to the 39 Articles, to undertake their cause, moved the House for leave to bring up their Petition; upon which occasion he spoke as follows:

Mr. Speaker; when I inform the House that the subject of the petition which I hold in my hand, is religion, a matter of a grave and serious nature, and that it is signed by 250 grave and respectable men, I think I need not make use of any other argument to bespeak your indulgence. Solicited as I have been, and inclined as I always am, to promote the redress of national grievances, I could not on this occasion help stepping forth to the assistance of tender consciences, and I will say of injured truth. The 39 Articles of the church of England were framed, when the spirit of free enquiry, when liberal and enlarged notions were yet in their infancy. That submissive and slavish turn of mind, which is the characteristic of Popery, that implicit deference which it prescribes to superiors, still cramped and fettered the human mind. The sovereign, or the director of his conscience, or his archbishop, or his prelates, dictated an article of faith; and the rest of the clergy received it perhaps with reluctance, but without daring to complain, much less to oppose.

Is it not, then, reasonable to suppose, that the 39 Articles are not so perfect as they should be, or as they might be? Is it not natural, from this circumstance, to conclude, that they do not breathe that air of freedom, that liberal spirit, which they might have acquired, had they been properly examined and discussed, like other questions, in the great council of the nation? I think we may safely draw this conclusion *à priori*, without attending to any other point, but the history of their

clergy residing in or near the metropolis was advertised for the 17th of July, when it was unanimously agreed, to form an association for the purpose of applying to the legislature for relief. This, from the place of meeting, was called "The Feathers Tavern Association;" and an excellent petition having been drawn up by the Archdeacon, was adopted by the Association and circulated through the country with great industry, in order to obtain signatures previous to the meeting of parliament.

The petitioners, though comparatively few in numbers, not amounting to 250, were of high consideration in point of talents, of learning, and of moral worth. The names of Lindsey, of Blackburne, of Wyvill, of Jebb, of Law, of Disney, of Chambers, and many

* The following account of the origin and progress of the Clerical Petition is taken from Mr. Belsham's Memoirs of the Rev. Mr. Lindsey:

This application to parliament originated in the great impression which was made upon the public mind, and especially upon the minds of many of the learned, liberal, and serious clergy, by the celebrated work of Archdeacon Blackburne, entitled "The Confessional." At the desire of some of his brethren, the Archdeacon published in the beginning of the year 1771, "Proposals for an application to parliament for relief in the matter of subscription, &c. humbly submitted to the consideration of the learned and conscientious clergy." In consequence of these proposals a meeting of the

formation. But when we come to read, and to weigh them deliberately in our own minds, how much stronger does the argument become? Several of the Articles are absolutely unintelligible, and indeed contradictory and absurd. Human rea-

others, are such as would do honour to any cause. The majority were clergymen; the rest were gentlemen of the professions of law and medicine, who thus entered their protest against the yoke of subscription imposed upon students at the Universities who had no view to the clerical office.

It being determined by the Association not to defer the petition to another session, the petitioners and their friends were very active in soliciting the support of those members of the House of Commons who might be disposed to listen to their arguments. Their reception in general was civil, but not very encouraging. Many regarded the object of the petition as frivolous; and many believed, or pretended to believe, that it would be hazardous to meddle with the Articles. The prevailing opinion was, that the application was ill-timed, and that it was best to let religion alone. Some, however, who were in the foremost rank for talents, integrity, and eloquence, took up the cause with great ardour, and promised their most zealous support. The state of the business is thus represented in a letter from John Lee, esq. who was afterwards Solicitor General, to a friend in the country, dated January 31, 1772.

"It will surprise you who live in the country, and consequently have not been informed of the discoveries of the metropolis, to hear that the Christian religion is thought to be an object unworthy of the least attention; and that it is not only the most prudent, but the most virtuous and benevolent thing in the world to divert men's minds from such foolish subjects with all the dexterity that can be. This is no exaggeration, I assure you: on the contrary, it seems to be the opinion (and their conduct will shew it) of nine-tenths of both Houses of Parliament. On Thursday a committee of petitioners waited upon lord North to apprise him of the nature of their application, and to inform themselves of his intention concerning this matter. He received them with great courtesy, commended the decency of the petition itself; but before he parted with them, he told them that all with whom he had conversed were of opinion that innovations would be very improper. Mr. Pitt, the nephew of lord Chatham, has undertaken to second the motion, and I am sure he will acquit himself ably. I spoke with him on the subject, and he understands it very well. Lord George Germaine is hearty in the cause, has studied the controversy, and speaks admirably. Mr. Dunning has promised me to attend it; and as his abilities are unequalled by any man's I ever knew, I hope he will do honour to the cause and to himself. Some others there are of less

son and common sense, by which alone we can judge of revelation itself, revolts against them; and I will be bold enough to say, that there is not a clergyman in England, who thoroughly believes them in the literal and grammatical sense, as he is required by the nature of his subscription.

note, who will enter into the debate; yet such a general confederacy is there against the measure, that I do not believe we shall divide forty members, perhaps not twenty: yet the debate will do honour to the petitioners, though at present no good to the cause."

On the 6th of February 1772, agreeably to the Resolution of the general meeting, the petition was presented to the House of Commons. It was introduced with a very neat and appropriate speech by sir William Meredith. Lord John Cavendish and sir George Savile having declined the office, not from any want of zeal for the cause, but because they did not consider themselves as sufficiently masters of the subject. It was intended by the minister that the petition should be treated civilly, be laid upon the table, and the consideration of it adjourned for six months. But the intemperate zeal or the secret instructions of sir Roger Newdigate, one of the members for the university of Oxford, a gentleman of mild dispositions and exemplary character in private life, happily defeated the artful policy of the noble lord, and gave rise to one of the most interesting and animated debates that was ever heard in that House; a debate, as Mr. Lindsey expresses it in a letter to a friend, "which entered gloriously into the whole merits of our cause; and which was well worth going two hundred and forty miles to hear." It lasted for eight hours. Of this debate I will take the liberty to introduce a brief account extracted from a letter of the learned gentleman above mentioned to his friend in the country:

"Sir William Meredith in a few words informed the House that he had in his hands a petition of a number of respectable clergy and others, praying relief in the matter of subscription; and therefore he moved that it might be brought up. Mr. T. Pitt seconded the motion. On this, sir Roger Newdigate rose up in great anger and demanded to know what the contents of the petition were, and what the number and names of the men who had subscribed it. Sir William then read the petition in his place, and a few of the names, adding, that the number was about 250. Sir Roger Newdigate then began the debate, and opposed with great vehemence the bringing up of this petition. In his opinion it aimed at the destruction of the church, whose existence depended upon the continuance of the Articles. Sir Roger spoke contemptuously of the number and quality of the petitioners, and sustained with great fortitude the character of member for Oxford. He was followed by Mr. Hans Stanley, who opposed the bringing up of the

Is it not, then, a great oppression, thus either to wound tender consciences, or to keep them entirely out of the church? To me the matter appears in that light; and as I know that this House ought always to be ready to redress the grievances of the subject, and in fact must redress them in this instance, if they are at all redressed, I think that the petitioners have with great propriety and judgment applied to this House. Were the proposed reform a matter of a slight and trivial nature, were there in our creed no tenets, no dogmas that had any pernicious effect upon society, I should be less sanguine. But the fact is, that there are several, which are damnable, not only in a religious and speculative light, but also in a moral and practical view. Hence many of our most learned divines, the great lights of the church and bulwarks of the Reformation and Protestantism, wish that we were well rid of them. Hence the murmurs and complaints, which at their first promulgation they produced, and ever since perpetuated. Hence the present petition, which, were it not for reasons obvious to this House, would, instead of 250 names, have had the sanction of thousands.

But let me communicate to the House the substance of it. Creeds and confes-

petition, as it tended to disturb the peace of the country, which, in his opinion, ought to be the subject of a fortieth Article, which would be worth all the thirty-nine. He was succeeded by Mr. Fitzmaurice, who is brother to lord Shelburne, and spoke on the same side, throwing out some very indecent reflections on The Confessional and its author, and endeavouring to prove the petitioners a parcel of canting hypocrites, who, under pretence of reformation, meant the ruin of our civil and ecclesiastical government. This conduct roused the resentment of Mr. Pitt, who with great dignity and good sense observed upon the indecency of calumniating any persons appearing in the character of petitioners for redress of grievances, more especially the persons then applying for relief in a matter that highly concerned the purity of religion, the integrity of their own minds, and even the morality of the people. He stated very well the principles of the Reformation, and fairly inferred from them the propriety of the petition.

"The motion for bringing up the petition was also supported by lord George Germaine, Mr. Sawbridge, Mr. Thomas Townshend, lord John Cavendish, Mr. Dunning, Mr. Henry Hoghton, Mr. Solicitor General Wedderburn, and sir George Savile. I believe sir George Savile's speech was one of the best that was ever delivered in that House. I can give you

sions are according to it mere human compositions, and therefore usurpations upon the right of private judgment, which no man can give up without offending God and his conscience, and incurring the guilt of prevarication and hypocrisy. The Scriptures are the law of God, and therefore infallible, and indispensably obligatory upon a Christian. For this reason let the Scriptures be the only test, the only confession of faith, to which subscription is required from the teachers of the gospel, or from any other class of men. Put a stop to the practice of making the young scholars at our universities subscribe to Articles, which they come to study, and not to subscribe. Before matriculation they are at one university obliged to perform this ceremony at sixteen, and at the other before that period. Is not this the way to make them imagine that all subscription and oaths are a matter of mere form, and have in them nothing sacred or essential? Surely such a plan of education is very little calculated for making them good members of society. Were there no other objects of consideration offered in this petition but this single fact, I think it alone would be sufficient to command your attention, and to induce

no idea of its excellence, unless by repeating some parts of it when I have the pleasure of seeing you. I cannot help saying, however, that I never was so affected with, or so sensible of the power of pious eloquence as while he was speaking. It was not only an honour to him, but to his age and country. Mr. Solicitor General spoke very well, and gave a very handsome testimony to the character of Mr. Blackburne as a learned, pious, virtuous, and venerable man, and vindicated his book as an excellent and entertaining performance. The speakers on the opposite side were sir Roger Newdigate, Mr. Fitzmaurice, lord Folkestone, Mr. Byrne, lord North, Mr. Charles Fox, Mr. Burke, Mr. Dyson, Mr. Jenkinson, Mr. Stanley, Dr. Hay and Mr. Cooper. Nobody but sir Roger Newdigate attempted to defend the Articles; and all the House explicitly declared it was foolish to require subscription at the Universities, and expressed a wish that it might be laid aside there.

"After a very fine debate the House divided; the numbers for not receiving the petition were 217; for receiving it 71; which considering the influence of the bishops and ministry, and the character and weight of the minority, was thought a very great affair. The clergy petitioners were delighted with the debate, all of them that were in town being admitted to hear it. This scene was acted yesterday, beginning at three and ending at eleven o'clock."

you to let it be brought up. I move therefore for leave to present this Petition, that it may be read by the Clerk, and afterwards discussed by the House.

Sir *Roger Newdigate* said it was necessary the mover should read the petition.

Sir *W. Meredith* then read the petition, as follows :

“ To the Honourable the Commons of Great Britain in Parliament assembled.

“ The humble PETITION of certain of the Clergy of the Church of England, and of certain of the Professions of Civil Law and Physic, and others, whose names are hereunto subscribed,

“ Sheweth,

“ That your petitioners apprehending themselves to have certain rights and privileges which they hold of God only, and which are subject to his authority alone. That of this kind is the free exercise of their own reason and judgment whereby they have been brought to, and confirmed in, the belief of the Christian religion, as it is contained in the Holy Scriptures. That they esteem it a great blessing to live under a constitution which, in its original principles, ensures to them the full and free possession of their faith, having asserted the authority and sufficiency of Holy Scripture in “ all things necessary to salvation ; so that whatsoever is not read therein, nor may be proved thereby, is not to be required of any man that it should be believed as an article of the faith, or be thought requisite or necessary to salvation.” That your petitioners do conceive that they have a natural right, and are also warranted by those original principles of the reformation from Popery, on which the church of England is constituted, to judge in searching the Scriptures each man for himself what may or may not be proved thereby. That they find themselves, however, in great measure, precluded the enjoyment of this invaluable privilege by the laws relating to subscription, whereby your petitioners are required to acknowledge certain articles and confessions of faith and doctrine drawn up by fallible men, to be, all, and every of them, agreeable to the said Scriptures. Your petitioners therefore pray, that they may be relieved from such an imposition upon their judgment, and be restored to their undoubted rights as Protestants of interpreting Scripture for themselves, without being bound by any human explications

thereof, or required to acknowledge by subscription or declaration, the truth of any formulary of religious faith and doctrine whatsoever, beside Holy Scripture itself.

“ That your petitioners not only are themselves aggrieved by subscription as now required (which they cannot but consider as an encroachment on their rights, competent to them both as men and as members of a Protestant establishment) but, with much grief and concern, apprehend it to be a great hindrance to the spreading of Christ's true religion. As it tends to preclude, at least to discourage further enquiry into the true sense of Scripture, to divide communions and cause mutual dislike between fellow Protestants : as it gives a handle to unbelievers to reproach and vilify the clergy, by representing them (when they observe their diversity of opinion touching those very articles which were agreed upon for the sake of avoiding the diversities of opinion) as guilty of prevarication, and of accommodating their faith to lucrative views or political considerations : as it affords Papists, and others disaffected to our religious establishment, occasion to reflect upon it as inconsistently framed, admitting and authorising doubtful and precarious doctrines, at the same time that Holy Scripture alone is acknowledged to be certain and sufficient for salvation : as it tends (and the evil daily encreases) unhappily to divide the clergy of the establishment themselves, subjecting one part thereof, who assert but their Protestant privilege to question every human doctrine, and bring to the test of Scripture, to be reviled, as well from the pulpit as the press, by another part who seem to judge the Articles they have subscribed to be of equal authority with Holy Scripture itself : and lastly, as it occasions scruples and embarrassment of conscience to thoughtful and worthy persons, in regard to entrance into the ministry, or cheerful continuance in the exercise of it.

“ That the clerical part of your petitioners, upon whom it is peculiarly incumbent, and who are more immediately appointed by the state to defend and maintain the truth as it is in Jesus, do find themselves laid under great restraint in their endeavours herein, by being obliged to join issue with the adversaries of revelation, in supposing the one true sense of Scripture to be expressed in the present established system of faith, or else to incur the reproach of having departed from their

subscriptions, the suspicion of insincerity, and the repute of being ill-affected to the church; whereby their comfort and usefulness among their respective flocks, as well as their success against the adversaries of our common christianity, are greatly obstructed.

"That such of your petitioners as have been educated with a view to the several professions of civil law and physic, cannot but think it a great hardship to be obliged (as all are in one of the universities, even at their first admission or matriculation, and at an age so immature for disquisitions and decisions of such moment) to subscribe their unfeigned assent to a variety of theological propositions, concerning which their private opinions can be of no consequence to the public, in order to entitle them to academical degrees in those faculties, more especially as the course of their studies, and attention to their practice respectively afford them neither the means nor the leisure to examine whether and how far such propositions do agree with the word of God.

"That certain of your petitioners have reason to lament not only their own, but the too probable misfortune of their sons, who, at an age before the habit of reflection can be formed, or their judgment matured, must, if the present mode of subscription remain, be irrecoverably bound down in points of the highest consequence to the tenets of ages less informed than our own.

"That whereas the first of the three Articles enjoined by the thirty-sixth canon of the church of England to be subscribed, contains a recognition of his Majesty's supremacy in all causes ecclesiastical and civil: your petitioners humbly presume that every security proposed by subscription to the said articles is fully and effectually provided for by the oaths of allegiance and supremacy prescribed to be taken by every deacon and priest at their ordination, and by every graduate in both universities. Your petitioners being, nevertheless, ready and willing to give any further testimony which may be thought expedient, of their affection for his Majesty's person and government, of their attachment and dutiful submission to the constitution in church and state, of their abhorrence of the unchristian spirit of Popery, and of all those maxims of the church of Rome which tend to enslave the consciences, or to undermine the civil or religious liberty of a free Protestant people.

"Your petitioners, in consideration of the premises, do humbly supplicate this honourable House, in hope of being relieved from an obligation so incongruous with the right of private judgment, so pregnant with danger to true religion, and so productive of distress to many pious and conscientious men and useful subjects of the state; and in that hope look up for redress, and humbly submit their cause, under God, to the wisdom and justice of a British parliament, and the piety of a Protestant king.—And your petitioners shall ever pray, &c."

Sir Roger Newdigate said it was a nullity unless seconded.

Mr. Thomas Pitt thereupon seconded it.

Sir Roger Newdigate :

Mr. Speaker: the hon. gentleman who made the present motion, tells you that the petitioners are respectable. But how are they respectable? Not surely for number. In that view they are light as dust in the balance. Is it from their characters then that they derive their weight? I desire no better proof of the absurdity of that supposition than this Petition. For what is its object? The repeal of Tests of Orthodoxy, which they have not only professed, but sworn they believed. These very men have most of them subscribed, promised, and declared their assent with respect to matters, in which it now appears that they would have their subscriptions, promises, and declarations pass for nothing. What must the world think of such ecclesiastics, of men, who for the sake of the grapes entered the vineyard through the briars and thorns with which it was fenced, and would now beat down every mound, and leave it naked and defenceless? The necessary conclusion is that there are divines, whom no ties, however sacred, can bind, whom scripture, church, conscience, and honour, affect less than secular interest. With what face can persons of this stamp come to the bar of this House, especially as they still hold the prize of their iniquity? I do not hear that any of them have relinquished their preferments in the church, however much they may have renounced the principles upon which they were obtained. Yet this seems to be the plan, which should have been adopted by conscientious Christians. Common honesty would have taught them not to eat the bread of the Church, while, in imitation

of the silly old woman in the fable, they kill the fowl that lays the golden eggs.

When we attend to the conduct of these gentlemen, we must acknowledge that it was not without reason that our ancestors framed creeds and confessions. If they will not bind the consciences of such a slippery protean race, they will at least work upon their fears. Prudence will confine them within certain bounds, and prevent the nation from being overwhelmed with a deluge of impiety and blasphemy. If you remove this institution, I cannot see how the state can a moment subsist. Civil and religious establishments are so linked and incorporated together, that, when the latter falls, the former cannot stand. They seem to me to be as inseparably connected as the soul and body. And indeed what is religion but the soul that animates the body politic? Every state that ever existed, found the sanctions of religion necessary to support its fabric. Even Deists allow that the belief of future rewards and punishments is one of the firmest bonds of society. But how can efficacy be given to any system of religion without some public form, some general standard of reference established as a basis for the alliance between church and state? The contrary idea is absurd and impossible, and could never have entered into any but distempered brains.

Suppose, however, for the sake of argument, all this reasoning to be groundless; suppose that no general criterion of faith is necessary, that the commonwealth may subsist, and yet not only the laity, but also the clergy adopt whatever whimsies start up in a monster-breeding fancy, yet I think it may be easily proved that this House cannot give the least countenance to this Petition, if they do not intend to violate all law and justice. The King has more than once not only declared but sworn in a solemn, public, and deliberate manner, to preserve our settlement in church and state inviolate. By the Coronation Oath he is enjoined "to maintain, to the utmost of his power, the laws of God, the true profession of the Gospel and Protestant reformed religion established by law." Can he abjure these words, for they are the very expressions of the oath; can he in complaisance to any mistaken notions of his subjects, retract, and annul his own act and deed, confirmed by the most sacred and inviolable of all religious ceremonies? You

would not affront him by such a proposition; and, if you were so ill-advised, he would certainly throw his crown into the sea, sooner than he would be guilty of so dishonourable a breach of his word. Suppose you should now pass an Act to repeal the Oath of Allegiance and Supremacy. Do you imagine that I should think myself absolved from the obligation, which I have contracted? You cannot look upon me as so void of religion. Oaths are matters of conscience, matters that pass between God and our hearts, and their force is not to be taken away by human authority. The King will certainly view the point in that light. I wish the petitioners had done the same. Had they been so prudent, so conscientious, there would have been no occasion for this day's debate. This, however, is not the only law that stands in the way of the Petition. The Act of Union is a much more insurmountable obstacle. By that statute, the religious establishment of either kingdom cannot be altered, except they be first restored to the condition, in which they stood before it took place. Let the parliament of Scotland, and the parliament of England become once more separate and distinct bodies; and then you may talk of a second reformation. Till that step is previously taken, the matter is impracticable; you cannot make the least change in the Church of England. The Union, as well as Magna Charta, I hold an irreversible decree, binding at all times and in all circumstances, like the law of the Medes and the Persians. At any rate, I am convinced that the Act of Union has rendered all petitions of this nature inadmissible; and in that persuasion I desire that the Clerk may read the clause to which I allude.

The Clerk then read the clause as follows:

"After the decease of her present majesty, (whom God long preserve!) the sovereign succeeding to her in the royal government of the kingdom of Great Britain shall, in all time coming, at his or her accession to the throne, swear and subscribe, that they shall inviolably maintain and preserve the foresaid settlement of the true Protestant religion, with the worship, discipline, right, and privileges of this church, as above established by the laws of this kingdom, in prosecution of the Claim of Right."

Mr. Hans Stanley :*

Sir ; I do not profess to be deeply skilled in theology, and, if I did, yet I would not encroach upon the province of those, who make it their peculiar study.

* The following curious Letter is copied from the Appendix to Mr. Belsham's Life of the reverend Mr. Lindsey :

A Letter from Hans Stanley, esq. to Mr. Lindsey, assigning his Reasons for declining to support the Clerical Petition.

"Paultons, Nov. 12, 1771.

"Dear Sir ; you certainly need no apology for addressing yourself to me upon any subject ; your own merit and our long acquaintance entitle you to my attention, and give you a right to expect that answer, which you are pleased to ask as a favour.

"You will give me leave to follow your introduction of this matter, by assuring you on my part that if your request related to any private interest of your own within my small power, I should heartily wish to serve you ; but in the present case it cannot weigh with me to promote innovations in the law, which I think not only unnecessary, but extremely mischievous.

"The peace of mankind is a fortieth article of my religion, which I hold to be much more important than any of the 39 objected to by those who with a very blameable indiscretion (and some, I believe, from worse motives) are willing to disturb it. I shall not easily concede that any alteration either in these or the liturgy is necessary, unless they contain doctrines contrary to sound morality and civil obedience, but even then I should by no means concur in the prayer of your petition : I should rather be led to a conclusion totally different, for I should think that the specific article ought to be amended, and not the whole set aside ; but this is a work in the first instance for synods, and convocations : many preparatory steps which I have not wisdom to indicate, ought to precede the parliamentary consideration.

"I deny that any of the Reformers whose names are transmitted to posterity with respect, ever adopted so wild an idea, as that of a Christian society without any established church holding certain defined tenets. The liberty of judging for yourselves of the sense of the Scripture is a possession, which, you say, all men have a right to enjoy : I not only agree with you in this proposition, but I will add, that you have a right to teach and inform others according to your own sense of Scripture, provided your lessons are conducive, or at least indifferent, to the happiness of mankind and the tranquillity of the state ; but these concessions do not exclude every government from giving the preference to such forms, or to such doctrines, which appear most eligible in their united public sense, which constitutes the law.

[VOL. XVII.]

Let every class of men exercise their own art. 'Ne sutor ultra crepidam' is no bad maxim ; and if it had been properly observed of late, we should have heard of fewer complaints against the church as well as the state. That I may not be

Therefore the ministers of separatists are maintained at the expence of their congregations ; dignities and preferments belong exclusively to the established church alone ; this has been, is, and ever must be the rule in the most tolerant states, and even in the freest republics.

"The wisdom of Providence seems in its dispensations to have reserved this authority for the future succession of Christian churches : it never could be supposed that the poor, and the ignorant, who compose the greater number of the laity, could give up their labour for, and pass their lives in the investigation of this divine system. It may, perhaps, be asserted, that the Scripture is so clear, and so full, that it wants no interpretation, nor any supplementary addition. If this be true, how happens it, that we are hitherto not better agreed ? Why has the world been disturbed by so many leaders of sects and heresiarchs, who (if they were all now alive upon the face of the earth) might compose as large an army as that with which Alexander the Great conquered the Persian empire ? Yet, all these men were convinced and maintained that their opinions were founded in, or derived from, Holy Writ.

"If the Scripture needs no explanation, I will turn Quaker, and join in any measure which tends to set aside your whole order as an useless expence. But if it does require explanation, I chuse to trust that task rather to the well-digested and mature studies of our venerable hierarchy, than to the crude transcendent notions, which caprice, vanity, self-conceit, and folly may suggest to every idle coxcomb, who wants to be taken notice of for his singularity. I am therefore (within the bounds of toleration which I have laid down) an advocate not only for strict subordination, to overawe and coerce such dangerous impertinencies, but for written canons, creeds, and articles to warn rash unthinking men of the future censure and punishment they may incur ; for it is essential to justice to mark out plainly offences of every kind, and it is an arbitrary exertion of power to inflict penalties without such notice. I should at the same time strenuously oppose the compelling any individual to sign any article of faith whatever. But nothing of this kind is at present done : every man is left to his own free choice, and every honest man will therein follow the dictates of his own opinion ; nor will there arise the slightest inconvenience if (from peculiar objections to the Liturgy, or the 39 Articles) some few persons more should chuse in the various professions of laymen to follow an active life of virtuous industry. I thank God we live neither in a desert country, nor an illiterate age, and I

[S]

charged with violating my own rule, I will only consider this question in a political light, and express the sentiments, not of a divine, but a statesman.

And here allow me to declare my attachment to religious as well as civil liberty. No man can be a greater friend than I to toleration; because no tyranny can be more dreadful than that which is exercised over the mind; and if I discovered any symptoms of this intolerant spirit in our church, I should be very ready to give it a check. But as nothing of this nature appears, the same love of moderation disposes me to throw my weight into the opposite scale, and to prevent that licentiousness of innovation, which the extreme lenity of our ecclesiastical discipline seems to have bred.

The object of this motion is no less than the absolute destruction of the church. For how, I beseech you, is the fabric of it cemented and held together

hope we are not likely soon to want a decent and worthy succession in our priesthood.

"If (as you are pleased to inform me) bishops and others have in their writings, preachings, &c. receded from what they have signed, and what the law has enjoined, I do not think the precedent so good as to wish the practice general; nor does the example of a college in Cambridge weigh greatly with me: I have quite accidentally heard somewhat of the secret history which has passed within those walls; if I am not deceived, that signature has been chiefly promoted by a factious abettor of those senseless seditious disputes which have divided us upon political subjects, and which are already enough envenomed without your throwing in the fresh corrosive of religious controversy. How total a fermentation such a mixture may produce is well known to all those who have read the history of this country for the last century.

"As no church is so purely of divine institution as not to smell a little of humanity, our establishment may be liable to some errors; yet does it leave you sufficient scope to be as you actually are, a very good man, and to contribute quietly to render your parishioners such. The wisdom of government, ever since the House of Hanover ascended the throne, has maintained your order in the possession of sufficient respect, and has kept you perfectly quiet; neither the good treatment you have enjoyed nor your want of power has been founded on the plan of any particular administration, they have arisen from the general sense and temper of this age. The reign of the Angelic and Seraphic Doctors is past and gone; were they now to appear again, the world would busy itself very little about their subtleties; nay, I am sanguine enough to believe

but by creeds and subscriptions. Remove the Thirty-nine Articles, and the whole edifice falls to the ground. I cannot, therefore, help considering the petitioners as men, who tell others that they will come and live with them, but that they must previously pull down their house, though, if they had desired the door to be altered, it might possibly have been more convenient. It is no new thing, to be sure, to alter religion; but it will certainly be a little unprecedented to alter her in this outrageous manner, and to leave her not a rag to cover her nakedness. The satire of Swift on Jack, in the Tale of a Tub, will no longer be deemed a fiction. We shall realize his monstrous caricature, and make the church of England, in fact, what the kirk of Scotland was in his imagination. Upon these principles, I am against entering into the merits of this petition; but then I do not object to its being brought up. Such a compliment is the least mark of

that Prynne, Burton and Bastwick, would at present have few partizans unless they were persecuted, which I think very unlikely to happen to any man. The vice of the present times is rather too much indifference about religious matters and opinions; if I might therefore, as a real friend, presume to advise the clergy, they ought not, while total infidelity is gaining ground upon them, to expose any partial weaknesses of their system, and thus by trivial and frivolous disagreements among themselves, perhaps endanger the whole fabric. I have sometimes, in my more serious hours, regretted that the poor Apocrypha found no better advocate, because, by rejecting those books, the rest of the Bible was perhaps brought under some degree of doubt; and if the Liturgy or the 39 Articles were now deserted, who knows where the growing incredulity of mankind would stop?

"Upon the whole, my dear Sir, I heartily wish it was possible for you to desist from a design which I so highly disapprove and must so entirely discountenance; but I well know the warmth with which these speculations are pursued by those who have once adopted them. I trust, however, there will be found sobriety and understanding enough in the House of Commons to reject your petition without any more debate than what every single member has a right to command upon every question however improper to be moved. I beg you will believe that, though we differ (so widely upon this public point, which I have endeavoured to treat with all possible candour and frankness, I shall ever be ready to receive your commands with regard to all matters which regard yourself, or in which I can prove to you the affection and esteem with which I am, dear Sir, &c. your, &c. H. STANLEY."

respect that we can show to the gentlemen, by whom it has been subscribed; and I shall always be for adopting any healing measure, any plan likely to prevent divisions and animosities in the church. Indeed, it is upon this foundation that I disapprove of proceeding farther in this matter. The church has established 39 articles of faith, and I pay them all due respect. But still I have in my creed a fortieth article, in my estimation as important as any of them, and, I had almost said, worth them all; and that is public peace. This essential purpose I never found in all my reading or experience greatly promoted by theological controversy. Religious questions are generally captious questions, and cannot be stirred without imminent danger to the community. Theological hatred is notorious to a proverb. I hope that you have more prudence than to rouse it at this juncture, when it may kindle a flame that will not be easily laid. Have you not already business enough upon your hands? Are not affairs of the utmost consequence on the eve of being laid before you? Why then create employment without any urgent necessity? Consider the fury of religious mobs, and drop the idea. Political mobs are in comparison of them harmless as doves. Of the latter you have had some experience. Do you intend also to try what spirit the former are of? Methinks the commotions raised by Sacheverell might be a sufficient lesson to reasonable men. Should you be bold enough to set fire to the train, I certainly shall not be one of the adventurers. I am not sufficiently hardy. Let others gird on the sword of the spirit, or in other words the sword of the flesh. My study shall be to preserve public peace, as the most sacred and inviolable article of religion.

Mr. *Byrne* said, he was a friend to religious liberty, but did not think that liberty supported, or likely to be supported, by complying with the prayer of the petition.

The Hon. Mr. *Fitzmaurice* :

Sir; though no divine, I think myself, as a representative of the people, justified in delivering my sentiments on this occasion. If incapable of judging, I must likewise be unfit to vote, or, in other words, to discharge my duty to my constituents. I shall therefore make no farther apology for speaking to this question.

The petitioners complain of articles

and subscriptions as infringements upon their right of private judgment, in explaining the scriptures. But are they obliged, are they compelled by pains and penalties to subscribe, and to interpret the scriptures according to the doctrine of the church? I never heard that they were compelled to come in, or that they were not suffered, while they remained peaceable subjects, and did not commence teachers within the ecclesiastical pale, to enjoy their own interpretation. This grievance, therefore, if it be a grievance, is of their own creation, and they have themselves, not the church to blame. Hence I suspect this argument of theirs to be a little Hudibrastic, and to insinuate that

‘He only breaks the oath who makes it,
‘Not he who for convenience takes it.’

I certainly do not look upon them as influenced by the purest motives in this application; and that you may not think my opinion groundless, I will state to you my reasons.

The Confessional I hold to be their creed. The arguments contained in that work set them first in motion; and I suspect its author to be the soul of this combination. Let us then consult this oracle, and see whether we cannot in his responses discover the principles and views by which the party is directed. “In all establishments,” says he, “where temporal emoluments are annexed to the profession of a certain system of doctrines, and the usage of a certain routine of forms, and appropriated to an order of men so and so qualified, that order of men will naturally think themselves interested that things should continue as they are. A reformation might endanger their emoluments. For though it should only begin with such things as are most notoriously amiss, the alteration of which would no way affect their temporal interests, yet, by opening a door to farther enquiry (which would be the natural effect of it) their dignities and revenues might possibly be brought into question, and be thought to need some regulations, which it can hardly be supposed they would approve. So that they who ask, who knows where a reformation may end, are certainly not unwise in their generation. A man of sense, though he may love his money better than any thing else, may nevertheless be capable of discerning where a reformation is wanted.” Does not this language clearly prove that the blow is aimed not only at the doctrine but also at the consti-

tution of the church? Religion is often a cloke for avarice and ambition, and the gentlemen are not unwise in their generation. I am credibly informed that the author of the Confessional, who enjoys a benefice in the church, and submits to the usage of a certain routine of forms, and yet in some of the foregoing words betrays such a predilection for the dissenters, was tempted to join their standard by an offer of even larger appointments than he now possesses. But did he obey the call of the orthodox and of the spirit? He was not so unwise in his generation. A man of sense, though he may be capable of discerning the particulars where a reformation is wanted, may nevertheless love his money better than any thing else. This reformer understood the essential difference between a precarious annuity and a legal freehold.

If any farther explanation of his mind be wanted, here it is—"But, if ever the mask should fall off in some future skirmish, the probable and frequent effect of a rivalry for temporal honours and emoluments, and if one of the parties should be reduced to the necessity of leaning on the friends of reformation by way of balance to the other, it is then that the labours of these idle and visionary men may come to have their weight; and some of those, at least, who are now pining away in desponding obscurity under the frowns of their disobliged superiors, may possibly live to see the way they have been preparing, gradually opening to the accomplishment of what all well-informed Christians and consistent Protestants have been so long and so ardently wishing for in vain." Does this passage want any comment? Is it not clear? Is it not explicit?

If the petitioners were in earnest about a reformation, why did they not first apply to the King? Why not to the bishops? If they had any just complaint to make, I cannot think either so unreasonable or so unjust as not to grant them every relief in their power. His Majesty, if properly solicited, would, I have no doubt, have called the convocation, and allowed it to take their case into consideration. Had they been baffled in this attempt, yet still they should not have applied to us, but to the upper House, where they might have had the assistance of the bishops, men who have made divinity their particular study.

As to the universities, I believe they have a power to remedy any defect of this

nature, which there may be in their constitution, and I am persuaded that upon proper application they will be ready to undertake so desirable a work. Why then bring the affair before this House? The step is certainly precipitate.

This being the state of the case, shall we embrace the creed of the confessionalist and neglect that of more grave and venerable men? Judge Blackstone, who I believe, will be allowed by all to be as enlightened as this author, gives a contrary decision. The question then will be whether we are to be swayed by The Confessional, or by Blackstone's Commentaries. [Here the hon. gentleman read a passage from book 4, chap. 4 of that work.] Before we come to that resolution, it would not be improper to enquire what are the religious tenets of the petitioners. Are you assured that they are not tainted with the leaven of Arminianism and Socinianism? I have reason to think that some of them deny the divinity of Christ. Can you think such men proper members of the church of England? I cannot harbour such a thought. Whether you do or do not, I for one will certainly vote for rejecting the petition.

Lord George Germain:

Sir; though a warm and zealous friend to the church of England, I must on this occasion dissent in opinion from those, who are supposed now to espouse her cause: and I will openly avow my sentiments without the least dissimulation or mental reservation. I hope no man will think the worse of me for my frankness, or charge speculative tenets to my account as a crime. If we live in a learned age, and in a land of liberty, it cannot surely be dangerous for us to talk as freely of religion as of politics. While we keep within the bounds of decorum, and preserve that respect which is due to long-established institutions, we can incur no blame for exposing any absurdities which may have crept into our theological system. Are not we every day discovering imperfections in our civil establishment, and in consequence applying a remedy? Why should we not pursue the same plan with respect to our religious constitution? Like the other, it is the work of men's hands, and therefore not necessarily perfect. When I call it the work of men's hands, do not mistake me, Sir, as if I charged imperfection upon the scriptures. Far be such presumption from my mouth. What I

mean is the creed thence reduced by our prelates, that systematical chain of doctrines called the thirty-nine articles. I beg pardon for what I am going to say; but I must be explicit. *Nolo episcopari*. There are in the thirty-nine Articles several tenets, to which I can by no means assent. I am persuaded they are not warranted by scripture; and I am sure they cannot be reconciled to common sense. With what face then can those doctrines be imposed upon the consciences of men as articles of belief, which no man can believe? You would not have your clergy like St. Augustin, who wished that God Almighty would reveal some new mystery absolutely absurd and impossible, that by his ready acquiescence he might prove that his faith was not only bigger than a grain of mustard seed, but even able to remove mountains. In my apprehension some of the Articles are incomprehensible, and some self-contradictory. I have no doubt but many, nay most of those, who are by the nature of their profession obliged to subscribe them, stand in the same predicament. Do you think it possible for such men sincerely and honestly to subscribe what they deem absurdities and contradictions? If you mean to have only hypocrites and prevaricators for teachers of the gospel, and to exclude the honest and conscientious, this is certainly the best plan imaginable. But, as I hope this is not your intention, I expect that you will open the doors of the church wide enough to admit those, who are likely to teach by example as well as by precept, and to be living sermons always speaking to the eyes of the people.

It is indeed objected to these petitioners that they maintain heterodox opinions, and particularly that they deny the divinity of Christ. I can only vouch for those, with whom I am acquainted; and I must say, that, as far as my knowledge extends, the charge is groundless. Some gentlemen in that part of the country from which I come, have, I find, signed the petition; and I cannot help doing them the justice to declare that there are no where to be met worthier members of the community either in a religious or civil light. The divinity of Christ they certainly never dreamt of disavowing; and the reflection is unjust, because it is unmerited. To my knowledge they are orthodox with regard to the grand essentials of Christianity.

It is no objection that they do not acquiesce in some of the 39 Articles. They

have that in common with the greatest divines and philosophers that England ever produced. What think you of Clarke and Hoadley, of Locke and Newton? Would they subscribe in the literal and grammatical sense, as the nature of the thing requires? Their writings demonstrate the reverse. Is it not time then to remove so great a stumbling block? For my own part it appears to me a melancholy thought, and indeed a crying grievance, that my son at 16 must subscribe, upon entering the University, what I cannot understand, much less explain to him, at 60. The matter certainly calls aloud for redress, and ought alone, as has been justly observed, to determine us to enter into the merits of this Petition. Yet to consider the matter rightly, in what better situation than those aggrieved youths are adults, to whom the Articles appear unintelligible, or self-contradictory? As the former, if they would not be debarred from entering the temple of science, must swallow the bitter pill of subscription; so must the latter, if they would not lose the fruits of their former studies, and the expence of their education, and, in a word, forego every prospect in life? Is not this too great a trial for humanity? It is indisputably an abuse of the first magnitude, and demands a speedy and effectual remedy.

Forbear then to tell us, that the petitioners are not respectable. Suppose the allegation true; yet still it can be here no reasonable objection; because we ought to attend to the merits of the cause, not to the numbers, by whom it is supported. Had this argument prevailed when Luther undertook to expose the abuses of the Romish church, what would have become of the Reformation? It would have been nipt in the bud, and this nation, as well as the rest of Europe, must have groaned under the tyranny of the Pope. Consider that reformation generally rises from small beginnings, and, like fame, gathers strength as it goes. Ancient establishments, however absurd, have a body of men interested to support them; yet still the force of truth at last surmounts every obstacle. Were not this the case, how could the Christian religion have been first established? It had the powers of the earth to vanquish. The religious systems of those days were not less zealously espoused by the priesthood and their adherents, than the 39 Articles are in our days. Had they been consulted, and made the

sole arbitrators of the affair, as has been suggested in the present instance by the last speaker, Christianity must have been crushed in the birth. We should never have heard of the scheme of redemption, in which we now all rejoice, and in which all the ends of the earth are or may be blessed. For these and various other reasons, which may be urged, I hope that the Petition will at least be brought up and read, if not examined and discussed. This we owe to justice, this we owe to decency. Reason and common sense call for it from our hands, and Christianity cannot otherwise be satisfied.

Lord Folkestone* apologized for rising, but as he found the same arguments admissible against receiving the Petition, as might be urged against complying with the prayer, he now ventured to state the reasons which determined him. He referred only to the clergy: all others may without danger, and therefore may with propriety, be relieved from a subscription, which by some is thought exceptionable, by others unnecessary, or indifferent. But, surely, a bare assent to the doctrines of the scriptures is not sufficient for the clergy, unless we mean to establish upon equal terms of honour and respect, every sect, which acknowledges the scriptures, and intend to refer the test and determination of orthodoxy to the power, the speciousness, the virulence, the flattery, or perhaps the future success of the teachers of the several opinions. It is starting, as has already been observed, the teachers of all denominations upon equal terms, and creating by law incongruous establishments. The practice of every society, every community under heaven, requires either expressly or by implication, assent to some rules, statutes, or articles. Such is the express case of members of the Universities, when there admitted: such is the case of members of any corporation: such is the case, by implication, of members of this House, who, without express assent, are yet bound to conform to the law and custom of parliament: such is the still more strongly implied assent of persons, subjects of another country, who take up a temporary residence here, and therefore bind themselves to submit to the laws of this country while they so reside. But there can be no difficulty in meeting this Petition,

* Jacob Pleydell Bouverie, eldest son of the earl of Radnor. His lordship was born in 1750.

which, if heard correctly, desires, that those who sign it, may interpret scripture for themselves. Let them do so, by all means: the laws already allow this: but let them not interpret it for those who form our church establishment.

Mr. Thomas Pitt:*

Mr. Speaker; I did not expect to hear the characters of the petitioners attacked, but since they are attacked, I must in justice and honour acquit them as far as my word will go. Several of them I have the pleasure of knowing, and I must say that, as public or private men, they are as unexceptionable as fallible mortals can well be supposed. Were they not upright and conscientious men, they would not have taken this step; for certainly it is not the road to preferment. Violent sticklers for the establishment are much more likely to please the higher powers. Suppleness and acquiescence have a much better chance than stubborn honesty and independence for the honours of this world. Had the petitioners been in pursuit of these objects, they would, like others, have followed the easy downhill way of complaisance, and not thus kicked against the pricks. They are not so void of understanding as not to know that by such a conduct they would have better consulted their temporal interest: but being men of honour as well as sense, they are willing to reconcile duty and interest, and to have a conscience void of offence both towards God, and towards men. Is not this the essence of Christianity? You cannot deny it. Yet the Church of England, as it is at present constituted, renders such a state of mind

* Afterwards lord Camelford. He was the son of Thomas Pitt, esq. lord warden of the stannaries, &c. and nephew to the first earl of Chatham. He was born in 1737: married in 1774, Anne, daughter of Pinkney Wilkinson, esq. He was created lord Camelford, baron of Boconoc in Cornwall, 1784; and died at Florence on the 19th of January 1793. His lordship has been honourably characterized by two noble pens: by lord Chatham, in early life, for being one of the most amiable, valuable, and noble-minded of youths; and recently by lord Grenville, for combining a suavity of manners with steadiness of principle, and a correctness of judgment with integrity of heart; which produced an affectionate attachment from those who knew him, that has followed him beyond the grave. See Lord Grenville's Preface to the Earl of Chatham's Letters, p. xiv.

impossible to many of its members. Is it not time to remove so great a stumbling block? The Petition solicits no more; and we cannot deny it without establishing a kind of inquisition against our clergy.

Mr. Charles Jenkinson :

Sir; the subscription required from the young students at the Universities, upon matriculation, seems to have struck the House as the most forcible argument for taking this petition into consideration. But let me ask, have the Universities been properly solicited to grant relief in this case? I conceive not; because if they had, they would in all probability have rectified the abuse. It is said, indeed, that they do not possess the power; but it is said without any authority. The university of Oxford has lately altered its constitution in a much more essential article: it has made a new regulation in the qualification necessary to entitle a man to a vote in choosing members of parliament. Having allowed them the power of altering their laws in the greater point, how can you deny it them in the less? Suffer themselves then to rectify this matter, they have the power, and I hope the will; when they fail, it will be time enough for you to take the point into consideration.

Having said this, Sir, permit me to observe, that this House, as a branch of the legislature, must certainly have a right in common with the other two branches, to alter the Union; because in every state, there must be somewhere a supreme and absolute power, from which there can be no appeal. But then I contend that this power is not to be exerted but in a case of great necessity upon a constitution so sacred as the Union. Now does the present case come under that description? Certainly not. At present no necessity presses; and the stirring of so delicate a question, would, instead of wisdom and gravity, betray a meddling, busy disposition, characteristics which I never wish to see those of this respectable assembly. Whoever has perused our history must know that proceedings of this nature proved fatal in the last century. Let us not bring back that æra, but cherish that system of ecclesiastical government, which we have found under the auspices of the illustrious House of Brunswick, so congenial to our civil establishment, and pregnant with so many blessings in every respect. Stir not the plague from the pit

in which it is buried. If you once kindle the flame of theological dispute, you know not where it may end. The church of England, as it now stands, bestows rewards on certain offices and professions of faith? Does it not in this point imitate every other society? The 39 Articles are its symbol, and a conformity to them it must and will exact as long as it means to remain a church. Would you pay a hired labourer his wages, if, instead of doing a piece of work according to express order, he adopted a plan of his own, perfectly inconsistent with your ideas? I consider clergymen as persons sent out into a vineyard, where the labourer only is worthy of his hire. He that violates his agreement, creates dissension among his fellows, and lifts up his heel against the hand that feeds him, is neither a good nor faithful servant, and cannot expect to enter into the joys of his Lord.

Lord John Cavendish :

Sir; the petitioners seem to me a respectable body of men, moved by conscience to seek redress from this House, which ought to be open to every complaint of the subject. I am therefore satisfied that the petition ought to be brought up and read. Not that I mean to advise you to enter into the discussion of it, like a body of divines. No, Sir, all that I wish to see done is to have it so far considered, that we may be enabled with propriety and decorum to send it up to his Majesty, praying him to refer it to the bishops, the convocation, or a select body of divines. This plan I do not propose, because I think the House of Commons so senseless as not to be capable of understanding the matter, or of judging of the intelligibility of the 39 Articles. On the contrary, I am convinced that, as morality and divinity are so nearly allied, and as we must be supposed masters of the former, if we would pretend to any skill in politics, we cannot well be denied some knowledge of the latter. Indeed it would be a shame for men, who profess Christianity, who act as legislators, and must in the last resort judge of every religious regulation and ecclesiastical law, to alledge such a plea. I make this proposal as a lenient scheme, by which we may gain the sanction of the fathers of the church, reconcile the clergy, please the people, and give satisfaction to every order. The Articles, I am sure, want a revisal; because several of them are heterodox and absurd, warranted nei-

ther by reason nor by scripture, and savouring strongly of the dark ages, in which the doctrines inculcated in them were originally fabricated. For, let me tell you, these Articles are much older than the Reformation. Many of them are Popish tenets, invented by a crafty priesthood, when they were forging chains for the human mind, and sinking it into ignorance and barbarism, that being masters in spiritual, they might also become lords and masters in temporal concerns. What else but this idea could have tempted them to establish at our universities such a shocking practice as that which has been just now exposed? They acted like true monks, who inveigle into their order young and unexperienced persons, who, they well know, will, after once swearing, be ashamed to recant, or even murmur their dissent, for fear of such reflections as have just now been cast, and unjustly cast, upon the petitioners. For my own part, as I am for allowing men a freedom of thought in politics, so am I for granting liberty of conscience in religion. I would not expel a man from this House, because he differs from me in opinion about public affairs. Why should I not follow the same rule in theological matters. We admit of dissenters in this House; and yet I do not find that the indulgence has done us much injury. Methinks the same reasoning is applicable to the church. Men's faces are not more different than their minds. No two persons can agree entirely in opinion; and indeed the same individual cannot boast of much uniformity in this particular. Infancy, youth, manhood, and old age, bring each along with them their peculiar notions and habits; and the body is not in a more constant state of change than the mind. Why then should we be so rigid in exacting a conformity in sentiment which is in the nature of things impossible. We should allow of a discreet latitude of opinion, and bring things as much as possible into the channel of nature, whom no body ever neglected with impunity. Instead of shutting our church we should open her doors as wide as possible, and not put it in the power of any man to say that strait is the way and narrow is the path which leads into her bosom. According to the present plan it is almost as easy for a camel to pass through the eye of a needle as for a conscientious man to enter into orders. Many of the Articles seem calculated for keeping out of the

church all but those who will subscribe any thing, and sacrifice every consideration to the mammon of unrighteousness.

Lord North:

Sir; when I came down to this House, my intention was to concur with other gentlemen in bringing the Petition up to your table. But this step I meant to take merely as a matter of compliment, and without entertaining the most distant idea of taking it into serious consideration. I should have afterwards proposed to adjourn the discussion of it for six months, or, in other words, civilly but effectually dismissed it. This plan, however, I have dropped in consequence of an argument advanced by my hon. friend on the other side of the House. The Union seems to me too fundamental a constitution to be lightly and wantonly altered. Nay, I hold it so sacred, that I cannot encourage a motion which has the least tendency that way without the most pressing necessity. Now, where is the necessity of altering at this juncture, any part of our religious system? I think that the petitioners should have, as a ground work, made good both, or at least, one of these two positions: that the established plan of religion had been found prejudicial to the state, and that liberty of conscience had been violated. But have they even made an attempt of this nature? No. How then, as statesmen, can we, with any degree of prudence, make innovations in a religious institution, which has stood the test ever since the Revolution? Under the Brunswick line we have found the church, as it is now constituted, contribute, no less than our civil establishment, to the general good of the realm. Has it yet deviated from its ancient maxims, or sustained any alteration to the worse? It is incumbent on the petitioners to prove this point, if they would make any impression on the great council of the nation. Some evil, and that of no inconsiderable magnitude, must be made palpable to this House, before it can, with propriety or decency, enter upon the discussion of orthodoxy: a matter which is not properly its province, and which it ought not to touch but in a case of the most urgent nature. I fear the nation would not be very apt to acquiesce in our theological decisions. We are not accustomed to discuss subjects of that kind, and, however learned some of us may be in that respect, the people will hardly be persuaded of our being competent judges.

But, suppose all this reasoning groundless, suppose the church of England has not really been useful to the state in a civil sense, yet it will be necessary to prove that liberty of conscience has been violated, and the right of private judgment infringed, before we can proceed any farther in this affair. Now can any man in this House stand up, and say that a single individual has been lately aggrieved on the score of religion? On the contrary, when was there a time that admitted of greater latitude in that particular? When a man acts as a good subject, when he is peaceable and honest, nobody questions him about religious concerns. Every person is allowed to go to heaven his own way. The only restraint laid upon us is that we create no public disturbance. When no violence, but only persuasion is used, every person is allowed to propagate his own doctrine. What can be a clearer proof of this assertion than the liberty that has been frequently taken, and taken with impunity, of explaining away the doctrine of the Trinity, and thus openly affronting an express act of parliament, which has forbid the discussion of that subject, because it inflicts a penalty on any person that denies it, and because an explanation, which to be an explanation must in some measure differ from the literal and grammatical sense, is a species of denial.

Those two essential requisites then being wanting, how can we comply with the desires of a few petitioners, when the whole body of the clergy oppose them, and treat their project not only as mad and frantic but as irreligious and anti-Christian? The peace of society ought with us to be the first object; and it is certainly better in a political sense that a few prevaricators, that make a trade of religion, should enter the church, than that order and good government should be subverted; a catastrophe, in which the success of this Petition would certainly terminate. When our civil dissensions have, thank God, in a great measure subsided, would you introduce religious quarrels? I fear the latter would prove infinitely the more dangerous of the two. Wake but the many-headed hydra, religious controversy, and she will be more difficultly laid asleep than the Hesperian dragon. Not all the opium, not all the mandragora, or perfumes of the east, will lull the monster to rest. Check then such a mad project in the bud, and give not the

least countenance to the Petition. Its object seems to be the absolute overthrow of the church. For how, I beseech you, can a visible church subsist without some symbol, some rule of faith, which, if it cannot absolutely render men unanimous in sentiment, will at least preserve its members from running out into those wild and extravagant courses, which have frequently distinguished such half-formed societies? What was the original cause of creeds, confessions, subscriptions and penal statutes? Those absurd and monstrous doctrines, which visionaries and fanatics derived from Scripture. Except the sense of Scripture was properly ascertained and acknowledged, it was found by woeful experience, for example by that of the Anabaptists in Germany, that society was totally at an end. According to your fifth monarchy men there was no king but king Jesus, and others insisted upon the community of goods. Hence all law, all justice, all property ceased. Would you have us bring back this scene of confusion? Consider what would be the consequence of opening the church to sectarists of every denomination? The rector would preach one doctrine, and the curate another. A morning lecturer would preach for the Trinity, an evening lecturer against it. The morning lecturer would answer, and the evening lecturer reply, so that there would be nothing but a constant reciprocation of answers, replies, and rejoinders. Thus the minds of the congregation would be distracted. One party would embrace the Trinitarian, and the other the anti-trinitarian scheme; and in the mean time peace, love, and charity would be torn to pieces between them. Nothing but polemical divinity would be regarded; morality, and the most essential duties of Christianity, would be totally forgot; and it would be well if some hot headed and intolerant brethren did not set up the cry of heresy, and commence an open persecution. Certain I am that the consequence of the Petition would be the destruction of that right of private judgment for which it contends. All anarchy and confusion has a tendency to despotism. As civil dissensions terminate in the erection of a lord and master, so do ecclesiastical quarrels naturally lead to superstition, and an infallible guide.

Mr. Thomas Townshend:

Sir; I am sorry that the minister

[T]

has so suddenly altered his opinion. This morning, when I had the honour to converse with him on the subject, his resolution was to have the Petition brought up, and then arrested in its progress. Surely no argument of sufficient force has yet been advanced to make such an instantaneous and powerful impression. For certainly the legislature must inherently have a right to alter the Union or any other statute. 'Salus populi suprema lex esto!' If the state of the nation requires a change in any point, however essential, the experiment must be hazarded. Not that I am of opinion this is the case in the present instance. In that respect I entirely coincide in sentiment with the opposers of the Petition. I will never give my consent to endanger the public tranquillity by the discussion of so delicate a question. All I mean is not to offer an affront to the petitioners by a blunt and hasty repulse. Notwithstanding what has been said, I hold them to be a respectable body of men; and accordingly I would pay them all possible deference. I therefore hope the Petition will be brought up.

*Mr. Edmund Burke:**

Mr. Speaker; before I enter into the merits of this question, allow me to cor-

* The following Fragment of Mr. Burke's Speech upon this occasion was found among his Papers. See Burke's Works, vol. 10, p. 1, 8vo edit. 1812.

"Mr. Speaker; I should not trouble the House upon this question, if I could at all acquiesce in many of the arguments, or justify the vote I shall give upon several of the reasons, which have been urged in favour of it. I should indeed be very much concerned if I were thought to be influenced to that vote by those arguments.

"In particular, I do most exceedingly condemn all such arguments as involve any kind of reflection on the personal character of the gentlemen, who have brought in a petition so decent in the style of it, and so constitutional in the mode. Besides the unimpeachable integrity and piety of many of the promoters of this petition, which render those aspersions as idle as they are unjust, such a way of treating the subject can have no other effect than to turn the attention of the House from the merits of the petition, the only thing properly before us, and which we are sufficiently competent to decide upon, to the motives of the petitioners, which belong exclusively to the great Searcher of Hearts.

"We all know that those, who loll at their ease in high dignities, whether of the church

rect some mistakes into which the opposers of the Petition are fallen. We are told that the Act of Union is irreversible in any point, and that in the present case it is eternally binding. I will readily own that so solemn and so important an act is not to be altered without weighty reasons. But then I can never agree that it is, like the laws of the Medes and Persians, absolutely irreversible. The power of rectifying the most sacred laws must, by the very nature of things, be vested in the legislature; because every legislature must be supreme, and omnipotent with respect to the law, which is its own creature. I will not indeed say that, if an alteration in the church of Scotland were proposed, prudential considerations ought not to render us very cautious how we exerted this power. Perhaps it might be necessary once more to assemble the parliament of Scotland to effect so great a purpose. Scotland, sensible of its future weakness in parliament, in consequence of the few representatives then allotted it, seems to have intended that no change should ever after take place either in its laws or religion. But how are we restrained from making innovations and improvements in our own system? The same argument is not applicable to our case. We are not

or of the state, are commonly averse to all reformation. It is hard to persuade them that there can be any thing amiss in establishments, which by feeling experience they find to be so very comfortable. It is as true that from the same selfish motives those, who are struggling upwards, are apt to find every thing wrong, and out of order. These are truths upon one side and on the other; and neither on the one side or the other, in argument, are they worth a single farthing. I wish therefore so much had not been said upon these ill-chosen, and worse than ill-chosen, these very invidious topics.

"I wish still more that the dissensions and animosities, which had slept for a century, had not been just now most unseasonably revived. But if we must be driven, whether we will or not, to recollect these unhappy transactions, let our memory be complete and equitable, let us recollect the whole of them together. If the Dissenters, as an honourable gentleman has described them, have formerly risen from a 'whining, canting, snivelling generation,' to be a body dreadful and ruinous to all our establishments, let him call to mind the follies, the violences, the outrages and persecutions, that conjured up, very blamably, but very naturally, that same spirit of retaliation. Let him recollect, along with the injuries, the services which Dissenters have done to our church and to our

concluded by the act ; its words are general, and insist only on the preservation of the religion established by law. But you will say that the King has sworn to preserve this same religion established by law, and that therefore he can never give

state. If they have once destroyed, more than once they have saved them. This is but common justice, which they and all mankind have a right to.

"There are, Mr. Speaker, besides these prejudices and animosities, which I would have wholly removed from the debate, things more regularly and argumentatively urged against the petition ; which, however, do not at all appear to me conclusive.

"First, two honourable gentlemen, one near me, the other, I think, on the other side of the House, assert, that if you alter her symbols, you destroy the being of the church of England. This, for the sake of the liberty of that church, I must absolutely deny. The church, like every body corporate, may alter her laws without changing her identity. As an independent church, professing fallibility, she has claimed a right of acting without the consent of any other ; as a church, she claims, and has always exercised, a right of reforming whatever appeared amiss in her doctrine, her discipline, or her rites. She did so, when she shook off the papal supremacy in the reign of Henry the 8th, which was an act of the body of the English church, as well as of the state (I don't enquire how obtained). She did so, when she twice changed the Liturgy in the reign of king Edward, when she then established articles, which were themselves a variation from former professions. She did so, when she cut off three Articles from her original 42, and reduced them to the present 39 ; and she certainly would not lose her corporate identity, nor subvert her fundamental principles, though she were to leave ten of the 39, which remain, out of any future confession of her faith. She would limit her corporate powers, on the contrary, and she would oppose her fundamental principles, if she were to deny herself the prudential exercise of such capacity of reformation. This therefore can be no objection to your receiving the petition.

"In the next place, Sir, I am clear that the Act of Union, reciting and ratifying one Scotch and one English act of parliament, has not rendered any change whatsoever in our church impossible, but by a dissolution of the Union between the two kingdoms.

"The honourable gentleman, who has last touched upon that point, has not gone quite so far as the gentlemen, who first insisted upon it. However, as none of them wholly abandon that post, it will not be safe to leave it behind me unattacked. I believe no one will wish their interpretation of that Act to be considered as authentic. What shall we think of the wisdom (to say nothing of the competence) of that le-

his consent to any innovation. What a futile argument ! The King only swears to adhere to what is the obvious meaning, to preserve that religion which has the sanction of his parliament. Now will not the system proposed by the petitioners be

gislature, which should ordain to itself such a fundamental law at its outset, as to disable itself from executing its own functions ; which should prevent it from making any further laws, however wanted, and that too on the most interesting subject, that belongs to human society, and where she most frequently wants its interposition ; which should fix those fundamental laws, that are for ever to prevent it from adapting itself to its opinions, however clear, or to its own necessities, however urgent ? Such an Act, Mr. Speaker, would for ever put the church out of its own power ; it certainly would put it far above the state, and erect it into that species of independency, which it has been the great principle of our policy to prevent.

"The Act never meant, I am sure, any such unnatural restraint on the joint legislature it was then forming. History shows us what it meant, and all that it could mean with any degree of common sense.

"In the reign of Charles the 1st, a violent and ill-considered attempt was made, unjustly, to establish the platform of the government, and the rites of the church of England, in Scotland, contrary to the genius and desires of far the majority of that nation. This usurpation excited a most mutinous spirit in that country. It produced that shocking fanatical Covenant (I mean the Covenant of 1636) for forcing their ideas of religion on England, and indeed on all mankind. This became the occasion, at length, of other covenants, and of a Scotch army marching into England to fulfil them ; and the parliament of England (for its own purposes) adopted their scheme, took their last covenant, and destroyed the church of England. The parliament, in their ordinance of 1643, expressly assign their desire of conforming to the church of Scotland as a motive for their alteration.

"To prevent such violent enterprises on the one side or on the other, since each church was going to be disarmed of a legislature wholly and peculiarly affected to it, and lest this new uniformity in the state should be urged as a reason and ground of ecclesiastical uniformity, the Act of Union provided, that presbytery should continue the Scotch, as episcopacy the English, establishment, and that this separate and mutually independent church government was to be considered as a part of the Union, without aiming at putting the regulation within each church out of its own power, without putting both churches out of the power of the state. It could not mean to forbid us to set any thing ecclesiastical in order, but at the expence of tearing up all foundations, and for-

the religion by law established, if it passes through the three branches of the legislature? Our ancestors were neither so bigotted nor so ill-informed as to leave no door open for reformation. Certainly Scotland did not then look upon the church of

feiting the inestimable benefits, (for inestimable they are,) which we derive from the happy union of the two kingdoms. To suppose otherwise, is to suppose that the act intended we could not meddle at all with the church, but we must as a preliminary destroy the state.

"Well then, Sir, this is, I hope, satisfactory. The Act of Union does not stand in our way: but Sir, gentlemen think we are not competent to the reformation desired, chiefly from our want of theological learning. If we were the legal assembly * * * * *

"If ever there was any thing, to which from reason, nature, habit and principle, I am totally averse, it is persecution for conscientious difference in opinion. If these gentlemen complained justly of any compulsion upon them on that article, I would hardly wait for their petitions; as soon as I knew the evil I would haste to the cure; I would even run before their complaints.

"I will not enter into the abstract merits of our articles and liturgy—perhaps there are some things in them, which one would wish had not been there.—They are not without the marks and characters of human frailty.

"But it is not human frailty and imperfection, and even a considerable degree of them, that becomes a ground for your alteration; for by no alteration will you get rid of those errors, however you may delight yourselves in varying to infinity the fashion of them. But the ground for a legislative alteration [of a legal establishment is this, and this only; that you find the inclinations of the majority of the people, concurring with your own sense of the intolerable nature of the abuse, are in favour of a change.

"If this be the case in the present instance, certainly you ought to make the alteration, that is proposed, to satisfy your own consciences, and to give content to your people. But if you have no evidence of this nature, it ill becomes your gravity, on the petition of a few gentlemen, to listen to any thing that tends to shake one of the capital pillars of the state, and alarm the body of your people upon that one ground, in which every hope and fear, every interest, passion, prejudice, every thing, which can affect the human breast, are all involved together. If you make this a season for religious alterations, depend upon it you will soon find it a season of religious tumults and religious wars.

"These gentlemen complain of hardships. No considerable number shows discontent; but, in order to give satisfaction to any number of respectable men, who come in so decent and constitutional a mode before us, let us examine

England as absolutely perfect; and I am much mistaken if it has yet altered its sentiments. Let us then hear no more of these arguments. The Union has not precluded the possibility of a change in either our civil or ecclesiastical establishments;

a little what that hardship is. They want to be preferred clergymen in the church of England, as by law established; but their consciences will not suffer them to conform to the doctrines and practices of that church; that is, they want to be teachers in a church, to which they do not belong; and it is an odd sort of hardship. They want to receive the emoluments appropriated for teaching one set of doctrines, whilst they are teaching another. A church, in any legal sense, is only a certain system of religious doctrines and practices, fixed and ascertained by some law; by the difference of which laws, different churches (as different commonwealths) are made in various parts of the world: and the establishment is a tax laid by the same sovereign authority for payment of those, who so teach and so practise. For no legislature was ever so absurd as to tax its people to support men for teaching and acting as they please; but by some prescribed rule.

"The hardship amounts to this, that the people of England are not taxed 2s. in the pound to pay them for teaching, as divine truths, their own particular fancies. For the state has so taxed the people; and by way of relieving these gentlemen, it would be a cruel hardship on the people to be compelled to pay, from the sweat of their brow, the most heavy of all taxes to men to condemn, as heretical, the doctrines, which they repute to be orthodox, and to reprobate, as superstitious, the practices, which they use as pious and holy. If a man leaves by will an establishment for preaching, such as Boyle's lectures, or for charity sermons, or funeral sermons, shall any one complain of an hardship because he has an excellent sermon upon matrimony, or on the martyrdom of king Charles, or on the Restoration, which I, the trustee of the establishment, will not pay him for preaching?—S. Jenyns, *Origin of Evil*. Such is the hardship, which they complain of under the present church establishment, that they have not the power of taxing the people of England for the maintenance of their private opinions.

"The laws of toleration provide for every real grievance, that these gentlemen can rationally complain of. Are they hindered from professing their belief of what they think to be truth? If they do not like the establishment, there are an hundred different modes of dissent, in which they may teach. But even if they are so unfortunately circumstanced that of all that variety none will please them, they have free liberty to assemble a congregation of their own; and if any persons think their fancies (they may be brilliant imaginations) worth

nor is the King bound by his oath not to listen to the restitution of the purity of the gospel and primitive Christianity.

Having thus far paved my way, and bore witness to what I think the truth, I must solicit the indulgence of the House,

paying for, they are at liberty to maintain them as their clergy, nothing hinders it. But if they cannot get an hundred people together, who will pay for their reading a liturgy after their form, with what face can they insist upon the nation's conforming to their ideas, for no other visible purpose than the enabling them to receive with a good conscience the tenth part of the produce of your lands?

"Therefore beforehand, the constitution has thought proper to take a security, that the tax raised on the people shall be applied only to those, who profess such doctrines, and follow such a mode of worship, as the legislature, representing the people, has thought most agreeable to their general sense; binding, as usual, the minority not to an assent to the doctrines, but to a payment of the tax.

"But how do you ease and relieve? How do you know that in making a new door into the church for these gentlemen, you do not drive ten times their number out of it? Supposing the contents and not contents strictly equal in numbers and consequence, the possession, to avoid disturbance, ought to carry it. You displease all the clergy of England now actually in office, for the chance of obliging a score or two, perhaps, of gentlemen, who are, or want to be, beneficed clergymen; and do you oblige? Alter your liturgy, will it please all even of those, who wish an alteration? Will they agree in what ought to be altered? And after it is altered to the mind of every one, you are no further advanced than if you had not taken a single step; because a large body of men will then say, you ought to have no liturgy at all. And then these men, who now complain so bitterly that they are shut out, will themselves bar the door against thousands of others. Dissent, not satisfied with toleration, is not conscience, but ambition.

"You altered the liturgy for the Directory; this was settled by a set of most learned divines and learned laymen; Selden sat amongst them. Did this please? It was considered upon both sides as a most unchristian imposition. Well, at the Restoration they rejected the Directory, and reformed the Common Prayer, which, by the way, had been three times reformed before. Were they then contented? Two thousand (or some great number) of clergy resigned their livings in one day rather than read it; and truly, rather than raise that second idol, I should have adhered to the Directory as I now adhere to the Common Prayer. Nor can you content other men's conscience, real or pretended, by any concessions: follow your own; seek peace and ensue it. You have no symptoms of discontent in the people to their esta-

while I speak to the only points which can admit of debate, the practicability of the scheme suggested by the petitioners, and the necessity of subscription. The petitioners, whose virtue and honour I will not question, because I really think them honest and con-

blishment. The churches are too small for their congregations. The livings are too few for their candidates. The spirit of religious controversy has slackened by the nature of things: by act you may revive it. I will not enter into the question, how much truth is preferable to peace. Perhaps truth may be far better. But as we have scarcely ever the same certainty in the one, that we have in the other, I would, unless the truth were evident indeed, hold fast to peace, which has in her company charity, the highest of the virtues.

This business appears in two points of view. —1st, Whether it is a matter of grievance. 2d, Whether it is within our province to redress it with propriety and prudence. Whether it comes properly before us on a petition upon matter of grievance, I would not enquire too curiously. I know, technically speaking, that nothing agreeable to law can be considered as a grievance. But an over-attention to the rules of any act does sometimes defeat the ends of it, and I think it does so in this parliamentary act, as much at least as in any other. I know many gentlemen think that the very essence of liberty consists in being governed according to law; as if grievances had nothing real and intrinsic; but I cannot be of that opinion. Grievances may subsist by law. Nay, I do not know whether any grievance can be considered as intolerable until it is established and sanctified by law. If the Act of Toleration were not perfect, if there were a complaint of it, I would gladly consent to amend it. But when I heard a complaint of a pressure on religious liberty, to my astonishment I find that there was no complaint whatsoever of the insufficiency of the Act of king William, nor any attempt to make it more sufficient. The matter therefore does not concern toleration, but establishment; and it is not the rights of private conscience, that are in question, but the propriety of the terms, which are proposed by law as a title to public emoluments; so that the complaint is not, that there is not toleration of diversity in opinion, but that diversity in opinion is not rewarded by bishoprics, rectories, and collegiate stalls. When gentlemen complain of the subscription as matter of grievance the complaint arises from confounding private judgment, whose rights are anterior to law, and the qualifications, which the law creates for its own magistracies, whether civil or religious. To take away from men their lives, their liberty, or their property, those things, for the protection of which society was introduced, is great hardship and intolerable tyranny; but to annex any condition you please to benefits, artificially created, is the most just, natural, and

scientious men; the petitioners, I say, Sir, complain of the Articles as infringing the right of private judgment, and usurping the place of the Scriptures. But how can this be the case, when they are at this moment exercising the right of private

proper thing in the world. When *e novo* you form an arbitrary benefit, an advantage, pre-eminence, or emolument, not by nature, but institution, you order and modify it with all the power of a creator over his creature. Such benefits of institution are royalty, nobility, priesthood; all of which you may limit to birth; you might prescribe even shape and stature. The Jewish priesthood was hereditary. Founders' kinsmen have a preference in the election of fellows in many colleges of our Universities; the qualifications at All Souls are that they should be—*optimè nati, benè vestiti, mediocriter docti*.

By contending for liberty in the candidate for orders you take away the liberty of the elector, which is the people; that is, the state. If they can choose, they may assign a reason for their choice; if they can assign a reason, they may do it in writing, and prescribe it as a condition; they may transfer their authority to their representatives, and enable them to exercise the same. In all human institutions a great part, almost all regulations, are made from the mere necessity of the case, let the theoretical merits of the question be what they will. For nothing happened at the Reformation but what will happen in all such revolutions. When tyranny is extreme, and abuses of government intolerable, men resort to the rights of nature to shake it off. When they have done so, the very same principle of necessity of human affairs, to establish some other authority, which shall preserve the order of this new institution, must be obeyed, until they grow intolerable; and you shall not be suffered to plead original liberty against such an institution. See Holland, Switzerland.

If you will have religion publicly practised and publicly taught, you must have a power to say what that religion will be, which you will protect and encourage; and to distinguish it by such marks and characteristics, as you in your wisdom shall think fit. As I said before, your determination may be unwise in this as in other matters, but it cannot be unjust, hard or oppressive, or contrary to the liberty of any man, or in the least degree exceeding your province.

"It is therefore as a grievance fairly none at all, nothing but what is essential not only to the order, but to the liberty of the whole community.

"The petitioners are so sensible of the force of these arguments, that they do admit of one subscription, that is to the Scripture. I shall not consider how forcibly this argument militates with their whole principle against subscription as an usurpation on the rights of Pro-

judgment, and denying their conformity to the word of God? They have not, it is true, pointed out any heterodox articles; but what is more, they have made a general charge against the whole creed of Articles. After this proof of the

vidence: I content myself with submitting to the consideration of the House, that, if that rule were once established, it must have some authority to enforce the obedience; because you well know, a law without a sanction will be ridiculous. Somebody must sit in judgment on his conformity; he must judge on the charge; if he judges, he must ordain execution. These things are necessary consequences one of the other; and then this judgment is an equal and a superior violation of private judgment; the right of private judgment is violated in a much greater degree than it can be by any previous subscription. You come round again to subscription as the best and easiest method: men must judge of his doctrine, and judge definitively; so that either his test is nugatory, or men must first or last prescribe his public interpretation of it.

"If the church be, as Mr. Locke defines it, 'a voluntary society, &c.' then it is essential to this voluntary society to exclude from her voluntary society any member she thinks fit, or to oppose the entrance of any upon such conditions as she thinks proper. For otherwise it would be a voluntary society acting contrary to her will, which is a contradiction in terms.—And this is Mr. Locke's opinion, the advocate for the largest scheme of ecclesiastical and civil toleration to Protestants; (for to Papists he allows no toleration at all.)

"They dispute only the extent of the subscription; they therefore tacitly admit the equity of the principle itself. Here they do not resort to the original rights of nature, because it is manifest that those rights give as large a power of controverting every part of Scripture, or even the authority of the whole, as they do to the controverting any articles whatsoever. When a man requires you to sign an assent to Scripture, he requires you to assent to a doctrine as contrary to your natural understanding, and to your rights of free enquiry, as those, who require your conformity to any one article whatsoever.

"The subscription to Scripture is the most astonishing idea I ever heard, and will amount to just nothing at all. Gentlemen so acute have not, that I have heard, ever thought of answering a plain obvious question—What is that Scripture, to which they are content to subscribe? They do not think that a book becomes of divine authority because it is bound in blue Morocco, and is printed by John Basket and his assigns. The Bible is a vast collection of different treatises: a man, who holds the divine authority of one, may consider the other as merely human. What is his Canon? The Jewish—St. Jerom's—that of the 39 Articles—

latitude of private opinion allowed by our church, it is absurd and ridiculous to complain of restraints in that respect. It is not a conformity of private but of public opinion, that she requires in teachers. In their closets they may embrace what tenets they please, but for the sake of peace and order, they must inculcate from the pulpit only the religion of the state. Nor does this obligation seem to me any hardship; because, every man must make a sacrifice of something to society; and allow that society of two evils to chuse the least, to impose upon a few individuals perhaps a disagreeable restraint, rather than introduce disorder and confusion into the whole body politic.

Suppose we were inclined to adopt the

Luther's—? There are some, who reject the Canticles, others six of the Epistles—the Apocalypse has been suspected even as heretical, and was doubted of for many ages, and by many great men. As these narrow the Canon, others have enlarged it by admitting St. Barnabas's Epistles, the Apostolic Constitutions, to say nothing of many other gospels. Therefore to ascertain Scripture you must have one Article more; and you must define what that Scripture is, which you mean to teach. There are, I believe, very few, who, when Scripture is so ascertained, do not see the absolute necessity of knowing what general doctrine a man draws from it, before he is sent down authorized by the state to teach it as pure doctrine, and receive a tenth of the produce of our lands.

The Scripture is no one summary of doctrines regularly digested, in which a man could not mistake his way; it is a most venerable, but most multifarious, collection of the records of the divine œconomy; a collection of an infinite variety, of cosmogony, theology, history, prophecy, psalmody, morality, apologue, allegory, legislation, ethics, carried through different books, by different authors, at different ages, for different ends and purposes.

“It is necessary to sort out what is intended for example, what only as narrative, what to be understood literally, what figuratively, where one precept is to be controlled and modified by another—what is used directly, and what only as an argument ‘ad hominem,’—what is temporary, and what of perpetual obligation—what appropriated to one state, and to one set of men, and what the general duty of all Christians. If we do not get some security for this, we not only permit, but we actually pay for all, the dangerous fanaticism, which can be produced to corrupt our people, and to derange the public worship of the country. We owe the best we can (not infallibility, but prudence) to the subject, first sound doctrine, then ability to use it.

plan proposed by the petitioners, the next point is to consider its practicability. They would have us exclude all forms and subscriptions, and tests, but the Bible, which they deem not only the proper standard of faith, but the sole confession to which an assent and consent ought to be enforced. Let me then ask them what books they will hold canonical; for there have been debates, and fierce debates too, upon this point. Will they exclude the book of Esdras, which has by some been reprobated? Will they admit the Song of Songs as one of the privileged books, by which they are willing to abide? I should not be surprised to hear them object even to some of the Gospels; for these have not escaped doubt among very respectable sects of Christians. The book of Revelations has been a bone of contention among divines. Do they mean to receive or reject the book of Revelations? The same questions may be put with respect to the Epistles; as some of them have been deemed apocryphal. If they will not retain any or all of these, what will they retain as undoubted repositories of the divine Word? If we begin to shake foundations, all these captious questions will necessarily be agitated, and render it no easy matter to fix any standard of faith.

But let us wave this objection, and suppose that they will take the Scripture now acknowledged by the church of England, as the ultimate criterion of orthodox Christianity, yet will the question be far from a final decision. The Scriptures, to be sure, contain the words of eternal life, and certainly furnish every thing necessary to salvation. Yet the Bible is one of the most miscellaneous books in the world, and exhibits by no means a regular series of dogmas, or a summary of religion proper, on account of its brevity and precision, to be subscribed by a public teacher. The schemes of God are inscrutable; his ways are not our ways, nor his thoughts our thoughts. We must fall down prostrate in reverential silence, nor presume to question his dispensations, nor ask him, Why dost thou so? It is impossible for such poor weak creatures as we are to scan his works, or to scrutinize the conduct of that Being of whom Simonides justly said, that the more he considered his nature the more obscure and incomprehensible the subject became. We are not, however, on this account to discard reason altogether, and to forget the use of that guide which God has given us for our

direction. 'Est Deus in nobis'—'Tis the Divinity that stirs within us,' when reason lifts up his voice, and points out the path that we should follow. If we would preserve in the church any order, any decorum, any peace, we must have some criterion of faith more brief, more precise and definite than the Scripture for the regulation of the priesthood. If we have not, what will follow? Some clergymen will explain a passage in the figurative and some in the literal sense; and upon this foundation they will build the most heterogeneous doctrines. Allow me but the liberty of using the figurative meaning, and I will undertake to prove the orthodoxy of transubstantiation, or any other Romish doctrine equally absurd. But how can you prevent this inconvenience, if the only declaration required upon entering into priests orders be only an assent and consent to the doctrines contained in Scripture? Whether you chuse the figurative or literal sense, you will fall upon one of the horns of the same dilemma; for another will, from the literal and grammatical meaning, deduce doctrines as ridiculous as any I can possibly deduce from the figurative. What is the result? We must, like all other nations that ever existed, adopt some regular system of subscription. This was the practice among the Jews; this was the practice among the Romans. The former established the priesthood in one family, which regularly followed the same invariable plan that was unalterably ordained by Moses. The Romans had their college of priests, who superintended religious matters, consulted the stars, and the flight of birds, took care of the sacred geese and chickens, opened the Sybilline books and explained their meaning. Yet who were more religious than the Romans, who were tolerating? Methinks we would do well to attend to their institutions. The wisest of politicians and statesmen have recommended it to other nations to copy their example. We have done it in many other instances, and if we are wise, we will not in this deviate from the same plan. We have certainly a right, like every other society, to exact a compliance with whatever doctrines, ceremonies, and forms we establish from those who receive the public money for that very purpose. Were they voluntary labourers in the vineyard, they would have some, though no solid plea; because no man has a right to work in another's ground without leave, and without following the pre-

scribed method. Suffer men of distempered imaginations, who yet believe in Scripture, to become preachers, and you may absolutely exterminate all rational Christianity, and bring disgrace upon the very name. An Anabaptist will make it a matter of conscience to refuse baptism to all your infants. Well, the parents wait till he comes to the years of maturity, and then carry him to the priest in order to partake of this sacrament, and become a member of Christ: but, behold! the Anabaptist is dead, or translated to a fatter benefice, and a new priest has succeeded, who makes it equally a matter of conscience not to baptize your adults. Hence a full-grown man may, upon this plan, drop into the grave, without ever arriving at Christian baptism, and, in the midst of the light of the Gospel, share as bad a fate as if he had lived in the darkness of heathenism. One sacrament being thus exterminated, the road to the extermination of the other, is short, natural, and easy; and thus you will be without any visible form of introduction into the great body of Christians.

Nothing therefore can be clearer to me, than that forms of subscription are necessary for the sake of order and decorum, and public peace. By a form of subscription, I mean a general standard which obtains throughout the whole community, and not the partial creed of this or that bishop by whom a priest happens to be ordained. Were this rule to take place, how perplexing would be the condition of a clergyman ordained in the diocese of Ely, beneficed in that of Chester, and removed to that of Gloucester? At every removal he would be obliged to change his faith, and, like Paul, become all things to all men. I mean an universal system deduced from Scripture, and digested into heads of doctrine like the articles, and that is to be equally binding on priests, deacons, and bishops. In short, I would have a system of religious laws, that would remain fixed and permanent, like our civil constitution, and that would preserve the body ecclesiastical from tyranny and despotism, as much at least as our code of common and statute law does the people in general; for I am convinced that the liberty of conscience contended for by the petitioners would be the forerunner of religious slavery. Men, for the sake of peace and quiet, would be forced to throw themselves into the hands of some dictator, as they did at the Restora-

tion into those of Charles the 2nd. For my own part I am no friend to innovations in religion, when the people are not, in consequence of some religious abuse, much aggrieved. That was the case at the Reformation; and then would I have heartily concurred in the alteration at that time made, had I been a member of this House. But had I possessed a vote, when the Directory was going to be established, I would have divided for the Common Prayer; and, had I lived when the Common Prayer was re-established, I would have voted for the Directory. The reason is obvious. They were not essentially different, neither contained any thing contrary to the Scriptures, or that could shock a rational Christian. The Articles appear to me in the same light. I will therefore vote against the Petition.

Sir George Savile :*

Mr. Speaker; I think the true question before us has been very little entered into. I hope I shall be able to go somewhat deeper into it; in order to which I must begin by making a distinction. I distinguish between the right of doing a thing, and doing right. The petitioners complain of a grievance. The House may or may not relieve them. But

* This Speech is taken from a MS. obligingly presented to the Editor by Mr. William Belsham. It was taken down by Dr. Philip Furneaux, and corrected by sir W. Meredith.

"So little interest," says Mr. Thomas Belsham, in his Life of the reverend Mr. Lindsey, "did the Dissenters take in this application of the clergy, that only two of the general body of dissenting ministers happened to be present at this memorable debate. These were, indeed, gentlemen of the first eminence and respectability among their brethren: the late reverend Edward Pickard, minister of the congregation at Carter-lane; and the learned Philip Furneaux, D. D. minister of the congregation at Clapham, well known to the public by his Letters to Mr. Justice Blackstone, upon the subject of toleration, and whose memory was so correct and tenacious, that having taken down from recollection the celebrated Speech of lord Mansfield in the House of Peers, in the great dissenting cause, concerning the liability of Dissenters to serve the office of sheriff, and having shown it to the noble and learned lord for his correction, it was returned by lord Mansfield, with a very few alterations, and with his express consent to publish it as his genuine speech." The speech will be found in vol. 16, p. 313.

[VOL. XVII.]

will any one say we shall do right in both these cases? To judge of this I make another distinction. I distinguish between the church of God and Christ, and the church of England, and whenever the church of England differs from the church of Christ, I give the preference to the latter. The point in question is whether we shall lay aside subscription to the Articles, and adopt the Scriptures in their room. The Scriptures are the only rule to the church of Christ, and adhering to the Scriptures in opposition to human inventions and corruptions, is the first principle of Protestantism, or to speak more emphatically, *Protest-antism*, for that is the true idea of the word. It is a protest against those corruptions which are inconsistent with the purity of the Christian doctrine as revealed in the Scriptures. The Protestants protested against the powers claimed and exercised, the superstitions and corruptions practised by the church of Rome on the authority of the succession to St. Peter. And St. Paul has been styled the first Protestant because he withstood St. Peter to the face. As to the Articles which the petitioners protest against, and from the subscription to which they earnestly desire to be freed, I speak it with submission to man, but I speak it in the presence of God, some of them in my opinion are unfounded in, some of them inconsistent with reason and Scripture, and some of them subversive of the very genius and design of the Gospel. The article of justification by faith without works, was, I suppose taken from those words, "He that believed and is baptized shall be saved, and he that believeth not shall be damned:" but without adverting to what is elsewhere said by our Lord, that he who would inherit eternal life must keep the commandments of God. As to the Article which declares that good works before faith have the nature of sin, it cannot be reconciled to the beautiful parable of the good Samaritan, whose example is commended by Christ in contra-distinction to that of the formal Levite and the orthodox priest. There is another Article which says, that for Adam's sin only, all who are born into the world deserve God's wrath and eternal damnation, thus representing damnation as if it sprang from a favourite attribute of God, and the declaration of it were a principal end of Christ's mission. I must now express my very great concern at the manner in which the Petition and those who signed it, have

[U]

been treated—a manner very unparliamentary, and in which none should be treated who come to the bar of this House to represent grievances and solicit redress. Their characters have been aspersed, injurious suspicions have been thrown out against their designs and intentions. The petitioners, Sir, are clergymen, men of respectable characters, I verily believe good and conscientious men. We may treat their situation with indifference, because we are strangers to it, and feel not their difficulty. But let us for a moment put ourselves in the place of those petitioners who are required to bring themselves under a solemn obligation on the one hand to preach according to Scripture, which if it means any thing, must mean according to what they apprehend to be the sense of Scripture, and the other are required to declare their belief in Articles which in their consciences they think contrary to the Scriptures, and which few will pretend to believe or understand.

It may be said there is no compulsion on those who subscribe, it is a voluntary act. If there be sin it is their own. Undoubtedly it is. The man who yields to guilt is a sinner, but is the tempter exempt from guilt? the difference is altogether in favour of the former. The tempted therefore may find mercy, the tempter none. And whoever continues the temptation when it is in their power to remove it, participates in the original guilt. This, Sir, is a debate, in which the honour of God, the interests of religion and virtue, our own consciences, and the consciences of others, are deeply concerned. Let us then indulge our angry passions no farther in ungenerous and personal reflections. The persons of those who petition this House are under our protection; their characters ought to be still more so. I therefore beseech you, I become an humble, an earnest suppliant to you, by the benevolent spirit of the Gospel, by all that is most serious, I beseech you by the bowels of Christ that this affair be treated not as a matter of policy, not as a matter of levity, not as a matter of censoriousness, but as a matter of religion. Some gentlemen seem to apprehend that we are bound to make the doors of the church as narrow, and to exclude as many as possible; I think we should make them as wide as we can, and to take in as many as possible; others are apprehensive that in case the Scriptures are substituted in the room of the Articles, it will be a means of

admitting into the church a great number of sectaries. Sectaries, Sir! had it not been for sectaries this cause had been tried at Rome—thank God it is tried here. Some gentlemen fear that if we lay aside the Articles, and place the Scriptures in their stead, by throwing down all distinctions, we shall admit Papists, and together with them their religion too. But they forget that Papists are excluded by the oath of supremacy, and by the declaration against transubstantiation, against the invocation of the Virgin Mary and other saints, and against the sacrifice of the mass: and if any other test be needful, let them be made to acknowledge liberty of conscience and the right of private judgment, let them abjure persecution. That is a truly Protestant test: but can any one seriously think that encouraging free enquiry and the study of the Scriptures will issue in the Romish religion. When I see a rivulet flow to the top of a high rock, and requiring a strong engine to force it back again, then shall I think that liberty of judgment will be prejudicial to the Protestant religion, then shall I think that adhering to the Scriptures only will lead to Rome. Some gentlemen talk of raising barriers about the church of God and protecting his honour. Language that is astonishing, that is shocking, that almost approaches to blasphemy. What! man, a poor contemptible reptile, talk of raising barriers about the church of God! He might as well talk of guarding omnipotence, and raising barriers about the throne of heaven. Barriers about the church of God! That church which, if there be any veracity in Scripture, shall continue for ever, and against which the gates of hell shall not prevail! If upon an occasion so serious, any allusion to fable were allowable, I might remind you of one somewhere to be met with, of a stately, magnificent castle, built on a rock, the basis of which was the centre of the earth, the top of it pierced the clouds, the thickness of the walls could not be measured by cubits. At the bottom of it a few moles were busy-ing themselves in throwing up some small hillocks of earth. Upon being asked by some spectators of their futile labours the reason of this, “Do you not see,” said they, “all blind as you are, that we are raising ramparts to protect the lord of the castle, and that the building would not be safe from the attacks of its enemies without us?” The church of God, Sir, can protect itself. Truth must, if a fair trial

be but allowed it, prove victorious. The lovers of truth will love all sincere inquirers after it; for it is to impartial and free enquiry only that error owes its ruin, and truth its success. Those who are actuated by the enlarged and benevolent spirit of the gospel will not condemn as heretics, will not reject as unworthy of their affection any who believe the Christian religion, who search and endeavour to understand the Scriptures, though they may be unable to comply with particular creeds and articles of human invention. Some gentlemen suppose that the Scriptures are not plain enough to be a rule and center of union to the church; they must have articles and creeds to supply defects. But if the things which are necessary to salvation are not plainly revealed, then there is no way of salvation revealed to the bulk of mankind at all. Whatever is obscurely revealed, will be always obscure, notwithstanding our decisions. It can never be authoritatively determined by men. The only authority which can explain and make the explication a test of faith, is, the authority of God. As to what he has plainly revealed it needs no articles to ascertain its meaning. We should not therefore adopt views and measures which are contracted and narrow. We should not therefore set bars in the way of those who are willing to enter and labour in the church of God. When the disciples came to Christ, and complained that there were some who cast out devils in his name, and said, "we forbid them, because they followed not us;" what did our Saviour do? Did he send them tests and articles to be subscribed? Did he ask them whether they believed this or that dogma of faith? Whether they were Athanasians, or Arians, or Arminians? No—he delivered that admirable and comprehensive maxim: "He that is not against me, is for me; go ye and say likewise."

Mr. Charles Fox said, he was against rejecting the petition, if it was meant as a method of shewing contempt, but should be against receiving it, as a reception would be a kind of engagement to proceed, which he hoped would not be done: that the Articles savoured of Christian charity, but taught such mysteries as ought not to be forced down the throats of young persons: that in Oxford, where the oaths of supremacy and allegiance could not be administered before the age of sixteen, an assent to the Articles was required by sta-

tute, however young the person was admitted: that he hoped the universities would, as he found they could, relieve in that particular, and that a minister who would subscribe the Articles, and afterwards preach against them, would make little impression on his audience.

Mr. Sawbridge said, the Articles were so strikingly absurd, that he wished them to be read, and would read them himself; but having gone through a few of them, declared he would not attempt to expose them further than they did themselves.

Mr. Richard Salter said, the Articles were too absurd to be defended.

Mr. Dunning said, the subscription to the Articles was indefensible, they were so palpably ridiculous. He never would advise the King to consult the convocation, nor any assembly, but his parliament. He observed, that such a picture had been drawn of the church of England, that he began to doubt if he was a member of it or no. We had been told that the church of England would never forget what it had suffered from the dissenters; now he had all along supposed it to be one of the first maxims of the church to forget and forgive. He said the noble lord who had made such good use of poppy and mandragora to lull to sleep the civil dissensions of the nation, need not fear a dose from him having the same effect in religious ones.

Mr. T. Pitt read a quotation from bishop Burnet to prove the inexpediency of all creeds that were complicated, in which he concluded with saying, that that of the church of England was complicated. He had heard no argument urged against the petition, that would not impeach the Reformation.

Mr. Solicitor General Wedderburn said, he was surprised to hear a doubt of the right to alter the Act of Union, when it was already altered both as to the English and Scotch church: the former, by the Act against occasional conformity, the latter by the act which destroyed elective patronages. He thought the petition ought not to be complied with, but should vote for receiving it, for that at present it was not before the House, and he did not regularly know the prayer. The universities, which were to prepare them for all the learned professions, and to make persons fit members of parliament, ought to be under parliamentary cognizance, if they did not take care to reform themselves. He could not conceive but

a prescription was equally efficacious, and proper to be followed, whether the physician had signed the Articles, or not.

Dr. *Hay* said, that the subscription to the articles of matriculation in the universities was improper, and ought to be, and he hoped would be remedied, but not by the interference of parliament, if the universities could do it themselves. He thought the Petition should have been presented to the Lords, with whom all clerical matters began, as divorces, &c. not that he doubted the right of the House to originate any matter that it pleased, but because amongst the members of the other House there were special guardians of the church.

Mr. *Cooper* said, the Petition was before the House sufficiently; that it must be rejected, because it removed the pillars of the church, without substituting any other support.

Sir *W. Meredith* said, he did not expect to hear that objection, which amounted to a censure on the modesty of the petitioners, who did not presume to dictate; that the Articles taught as divine, not only what were not the attributes of God, but what must be peculiarly the attributes of the devil, if we suppose the devil the most unjust of beings: that the Articles were a notorious falsehood: that no minister would defend the doctrines of them in a strict, grammatical sense, before his parish: that he repented his candour in opening the Petition: that the Schism Act which alters is subsequent to the Union: that understanding the articles of subscription in another sense than was intended by the compilers, and was strictly grammatical, was mere hypocrisy: and that he himself would subscribe, if the noble lord would prove, as he asserted, their conformity to scripture.

Lord *North* denied saying the Articles were conformable to scripture.

Sir *H. Hoghton* said, he was happy in the free exercise of his own opinion, and wished every one the same happiness.

Then the question being put, that the said Petition be brought up; the House divided.* The Yeas went forth.

* Extract of a Letter from Mr. Gibbon to Mr. Holroyd: "Boodles, Saturday night, February 8, 1772. Though it is very late, and the bell tells me that I have not above ten minutes left, I employ them with pleasure in congratulating you on the late victory of our dear mamma the church of England. She had last Thursday 71 rebellious sons, who pretended to

Tellers.

YEAS	{ Sir William Meredith Sir Henry Hoghton - }	71
NOES	{ Sir Roger Newdigate - Mr. Jenkinson - - - }	217

So it passed in the negative.

List of the Minority.

Allen, Benjamin	Colebroke, sir George
Aubrey, John	Coxe, Hippisley
Aufrere, George	Damer, hon. John
Baker, William	Damer, John
Barne, Miles	Damer, hon. George
Barré, Isaac	Davers, sir Charles
Barrington, sir John	Dempster, George
Burgoyne, John	Delaval, sir John
Byng, George	Duncomb, Thomas
Cavendish, lord Geo.	Dunning, John
Cavendish, lord Fred.	Duntze, John
Cavendish, lord John	Edmonstone, Arch.
Cholmley, Nathaniel	Farnaby, sir Charles
Clarke, Godfrey	Fletcher, Henry
Clayton, sir Robert	Frankland, sir Tho.
Clive, George	Frankland, William

set aside her will on account of insanity: but 217 worthy champions, headed by lord North, Burke, Hans Stanley, Charles Fox, &c. though they allowed the 39 clauses of her testament were absurd and unreasonable, supported the validity of it with infinite humour." Gibbon's *Miscellaneous Works*, vol. 1, p. 447.

"I mentioned the petition to parliament for removing the subscription to the 39 Articles. *Johnson*. 'It was soon thrown out. Sir, they talk of not making boys at the University subscribe to what they do not understand; but they ought to consider, that our Universities were founded to bring up members for the church of England, and we must not supply our enemies with arms from our arsenal. No, Sir, the meaning of subscribing is, not that they fully understand all the Articles, but that they will adhere to the church of England. Now take it in this way, and suppose that they should only subscribe their adherence to the church of England, there would be still the same difficulty; for still the young men would be subscribing to what they do not understand. For if you should ask them, What do you mean by the church of England? Do you know in what it differs from the Presbyterian church? from the Romish church? from the Greek church? from the Coptick church? they could not tell you. So, Sir, it comes to the same thing.' *Boswell*. 'But, Sir, would it not be sufficient to subscribe the Bible?' *Johnson*. 'Why no, Sir; for all sects will subscribe the Bible; nay, the Mahometans will subscribe the Bible, for the Mahometans acknowledge Jesus Christ, as well as Moses, but maintain that God sent Mahomet as a still greater prophet than either.'" *Boswell's Life of Dr. Johnson*.

Germaine, lord Geo.	Pitt, Thomas
Grove, William	Powlet, George
Guise, sir William	Rushout, John
Halsey, Thomas	Savile, sir George
Hanbury, John	Saunders, sir Charles
Hart, William Nevile	Sawbridge, John
Herbert, Henry	Scudamore, John
Honywood, Philip	Seymour, Henry
Hotham, Beaumont	Standert, Frederic
Houghton, sir H.	Thompson, Beilby
Hussey, William	Townshend, Tho. jun.
Irwin, John	Trecothick, Barlow
Keppel, hon. Aug.	Van Neck, Geo. Wm.
Laroche, James	Walsh, William
Marsham, hon. C.	Weddell, William
Meredith, sir William	Wedderburne, Alex.
Molesworth, sir John	Whitmore, Thomas
Molyneux, Crisp	Wilkinson, Andrew
Mordaunt, sir Charles	Winnington, sir Edw.
Oliver, Richard	Wray, sir Cecil
Palmerston, lord	

Debate on a Motion for a New Writ for Warwick.] Feb. 12. Mr. Alderman Sawbridge produced and read to the House, one of the papers called the London Gazette, containing authentic notice, that a new commission of the Board of Trade and Plantations had issued under the great seal, appointing certain gentlemen, members of the House, commissioners of that board. He then desired that the act of parliament, of the 6th of Anne, chap. 7, sec. 26th might be read, which was read, and is as follows: "Provided always, that if any person, being chosen a member of the House of Commons, shall accept of any office of profit from the crown, during such time as he shall continue a member, his election shall and is hereby declared void, and a new writ shall issue for a new election, as if such person so accepting was naturally dead; provided, nevertheless, that such person shall be capable of being again elected, as if his place had not become void as aforesaid." Upon this he moved, "that the Speaker do issue his warrant to the clerk of the crown, that a writ may issue for the electing a member for Cambridge in the room of Soame Jenyns, esq. who, during such time as he continued a member of the House, had accepted of the office of one of the Commissioners of the Board of Trade, an office of profit."

The ministry thought him not in earnest and were disposed to be merry; but they soon found that the matter led to serious consequences.

Sir Gilbert Elliot hoped the gentleman would not move for the writ in the absence of the member concerned, when the House

could not know whether he had accepted or not.

Mr. Sawbridge said he moved for the writ, that the gentleman concerned might not incur the penalty provided by law, if he did sit in the House after his acceptance of the office; but if any objections were made to the moving for the writ of that gentleman, as he was absent, he meant nothing personal, he took him as his name stood first; however, as he saw in the House a noble lord who was likewise appointed in this new commission, and who, in this place, could tell the House whether he had accepted or not, he moved the House, "That the Speaker do issue his warrant to the clerk of the crown, to make out a new writ for the electing of a burgess to serve in this present parliament for the borough of Warwick, in the county of Warwick, in the room of lord Greville, who, since his election for the said borough, hath accepted the office of one of the Commissioners for Trade and Plantations."

Lord Greville making no answer, whether he had accepted the place or not;

Mr. Sawbridge continued, that as lord Greville would give no answer, it must be presumed he had accepted the place; that in many sort of places it might be difficult if not impossible, to bring evidence of the actual acceptance, and that therefore the House had a right to demand of the person so charged; that the spirit of the Place Bill, plainly pointed out, that such place again accepted ought to be vacant, as the electors might approve their representative's acceptance of a place, in concert with others of whom they had a good opinion; but seeing him afterwards change his principles so as to join a ministry contrary to their inclination, though he retained the same place, yet he still ought to be sent back to them.

As the ministry durst not give a flat negative to this proposition, the words of the Act of parliament being pretty clear, they remarked that legal proof of the acceptance was not before the House. On this ground the matter was left. The ministry then moved the order of the day, in opposition to the motion for the writ, which was carried upon a division of 117 to 7.

Debate in the Commons on the Mutiny Bill.] Lord Barrington moved, that the report of the Mutiny Bill be read.

Governor *Pownall* said :

Sir; I beg that the progress of the Bill may be suspended; that the doubts which have arisen, touching the legality of the military government establishment in America, and the nature and power of the commissioners by which it was exercised, might be taken into serious consideration; because, even if it should be found that the powers and the commission were legal, or by any means could be made so, it would then be necessary to make an alteration and amendment in the Bill you are now reading, in order to empower his Majesty to issue his commission for holding court martials in America, to his military commander in chief in those his dominions, as the present will give no such powers, and the whole of the proceeding thereon from beginning to end were illegal. This question is of no less import than, whether or not there shall remain established by power, against law and the constitution, military government in America, exclusive of the supreme civil magistrate there? I am sorry to find such a heedless inattention in gentlemen to the concern of public liberty. I find there is not a disposition even to attend to the consideration. I shall therefore only state the question, and the doubts which have arisen, point out what ought to be done, and leave the matter with the House. It may be remembered that two years ago I moved an Address to his Majesty, that he would be pleased to order the several powers and authorities, contained in the charters and commissions of government, which the British subjects in America do of so full and perfect right enjoy there, might be examined and compared with the powers presumed to be granted in, and actually exercised by the military commissions. I stated the power of each, shewed them to be incompatible with each other, and illegal; stated all the impracticable difficulties which had arisen in the exercise, and all the doubts which had actually arisen amongst even his Majesty's officers and ministers. The ministers did in the face of the House then acknowledge that doubts had arisen with his Majesty's servants; that they had been laid before his Majesty, and he had ordered them to be referred to his counsel learned in the law: upon this the motion was withdrawn; it would have been indecent and unjust to have urged that as a motion of the House, which his Majesty of his own gracious

purpose had ordered to be done. The Attorney and Solicitor General, have given an opinion upon a case in consequence of that reference. I have seen it. The same doubts and difficulties still remain, and are the more dangerous, by the presumption that the practice is justified and supported by the opinions of these crown lawyers. I will venture to affirm, and do affirm, that the case is not fact, and the opinions not law. I am ready to maintain and justify my opinion. I cannot argue from a private paper in my pocket, and therefore that I may have the opportunity of calling for the case and opinion of the Attorney and Solicitor General, in order to bring on in form the consideration of this great question, I move, that the further reading of the Report be adjourned.

Lord *Barrington* :

The hon. gentleman moves the adjournment of the progress of this Bill, only to come at the case and opinion referred to. I see no reason for postponing the progress of this Bill, which goes in its usual form; but I shall object to the adjournment expressly, as I object to the calling for a private opinion of the lawyers of the crown, given to an office upon a case stated in the course of their business; if this was admitted to be done, the servants of the crown would never be safe. I do not know whether any error, or false judgment, or opinion given thus in private, when it was made public and authenticated by being laid before the House, might not be liable to censure, might not be impeachable. I shall therefore never consent to any thing which may put matters in such a case. But why stir these questions now? The whole of this business is settled, and nobody concerned objects to it. I do therefore give my negative to the motion. If the gentleman who moved this has a mind to make his objections, he may debate the point on his own opinion.

Governor *Johnstone* :

I shall not on this occasion go into any reasoning and argument upon the question; this is not the time; but I rise to declare my opinion, that the military commission, granted under the great seal to the commander in chief of his Majesty's troops in America, is illegal. I shall be always ready to maintain that opinion, from the nature of the several commis-

sions granted to supreme civil magistrates in the provinces. I am also founded and supported in what I affirm by the opinions of the greatest lawyers in this kingdom. Upon the point of the expediency, I say it is impracticable, and I could give a detail of blunders and illegal practices in the exercise of these powers, as would prove to be a decided conviction; but even suppose all were, as the practice of the ministers, and the opinions of the state lawyers suppose matters to be, you must alter and amend your Mutiny Bill. To whom is the King empowered by that Bill to grant his commission for holding general court martials? Why, to his Majesty's governor, or commander in chief respectively; that is, to the supreme magistrate, his locum tenens respectively, not the military commander in chief. This law stands now in the very words it did before there was any military commander in chief in America; could it then refer to that office before it was created? If therefore the military gentlemen will venture to exercise these powers, I speak it for their sakes, you must give them legal authority.

Governor Pownall:

I know it is to no purpose to press a motion which a majority is able to refuse; but if those gentlemen, who have the power in their hands, will let us have the case and opinion, and by that means a proper ground for debating the question, I am ready to meet them on that ground; but I will not raise and debate speculative questions, as if this House were a Robin-hood society. However, I see in his place one of the learned gentlemen who signed this opinion; if he will in his place rise up and defend the present establishment and practice on that opinion, I am ready to meet that argument.

The question being put, passed in the negative.

*Debate in the Commons on the Church Nullum Tempus Bill.** Feb. 17. Mr. Henry Seymour moved for leave to bring

* "A motion was soon after made for leave to bring in a bill to quiet the possessions of the subject against dormant claims of the church. Many arguments were brought upon this occasion, to shew that a limitation of this nature was as necessary with respect to the church, as it had been in regard to the crown; and that there was no more reason why the people should be disturbed in their possessions under the plea of immemorial time of the one, than

in a Bill for quieting the subjects of this realm against the dormant claims of the Church. He observed, that he had given notice in the House of this intention, so long ago as in the last session, that country gentlemen might have time to make enquiry among their constituents, whether such claims had not been made, under the sanction of the church plea of immemorial time, to the alarm, the disadvantage, the detriment, and oppression of private families. That every subject in the realm had his property and possession ascertained to himself and his heirs, by acts of limitation, which had passed at different periods for his relief and security; and that the crown itself, to render that property still more secure against its own nullum tempus power, had given way, and yielded to the public grievance; that the church now stood single, acting against the lay subjects of the crown, and superior in point of law claims to the crown itself; that length of possession, which fortified and strengthened legal right and just title in every other case, did in this alone render them more weak and uncertain; that his wish and desire was this, to put every subject in this free country upon the same footing, in point of common law; that the subjects, in his opinion, were entitled by their birth-right, as freemen, to the blessings of such a situation, and he apprehended that this Bill would answer that great salutary purpose. He added, that various instances could be quoted to shew how oppressively this church power had been used; but he would name one only, which was well known to the gentlemen of the law; he meant that of a member of their own (who afterwards acknowledged the fact), whose family at this instant was 120,000*l.* the worse by the claim of a bishop upon his lands, after the quiet possession for above 100 years. He said, that as to the poor parochial clergy, he wished, and was ready to give them any ease or advantage that could be pointed out, provided it was not intended to strike at the principle of

under the Nullum Tempus power of the other. That the church now stood single, acting against the lay subjects of the crown, and superior in point of law claims, to the crown itself; and that every subject in this free country should be put upon the same footing, in point of common law. Instances were pointed out of the heavy grievances that attended the revival of these dormant and obsolete claims; and one in particular, of a gentleman then pre-

the Bill; that he had made this offer to the two metropolitans, and desired that their lordships would point out in what manner this might be most effectually done: that this Bill differed even from that of the crown, for it gave the period of three incumbencies added to the sixty years, &c.

Mr. *T. Townshend*, though he opposed the measure, acknowledged the candour with which his friend had acted.

Mr. *Skinner* explained to the House the origin of this claim in the church, tracing the ecclesiastical powers and properties from the first establishment of tythes in this kingdom, shewing the reasonableness of this advantage in the church, and the necessity of preserving it, to guard it against the encroachments of the laity; observing, that in the Exchequer courts, almost all the causes heard there were determined in its favour, which was a strong presumption of the utility of it. The nullum tempus claimed by the crown, and put an end to by a statute law, was an engine in the hands of the strong to oppress the weak; whereas the nullum tempus of the church was a defence to the weak against the strong.

He was answered in a masterly manner

sent, whose family were losers to the amount of 120,000*l.* by a bishop's reviving a claim of this nature, though they had been in quiet possession of the estate in question above an hundred years.

"On the other hand it was said, that this power of reviving claims was absolutely necessary to the church to preserve her from those encroachments, which the laity were always willing, if not endeavouring, to make upon her; that she had been sufficiently stripped at the Reformation; and that as our forefathers then saw the necessity of what was left being for ever secured to her, they for that purpose ordered that no length of time should be a bar to her claims. That the effects of this bill would fall particularly upon, and be peculiarly injurious to the poorer clergy, who were frequently unable to defend their rights, against the combination of rich farmers, and the oppressions of their great neighbours; that the peculiar situation and quick succession of incumbents, made them particularly liable to suffer encroachments, and that it would be very hard, that the weakness or inability of the present possessor, should deprive his successors of their property, and of the only means they had of support. That the Nullum Tempus claimed by the crown, was an engine in the hands of the strong to oppress the weak; but that the Nullum Tempus of the church, was a defence to the weak against the strong.

by Mr. Cornwall, who also went into the more remote periods of the church; shewing, at different times, the different usurpations.

Mr. George Onslow replied, but he unfortunately quoted Grotius, which, Mr. Burke observed afterwards, was from a small edition of that author; as the general opinion of that writer, in favour of limited prescription, rather opposed than confirmed Mr. Onslow's assertions.

Lord North also spoke on the same side, and the Lord Advocate of Scotland, who gave as a reason in favour of the Bill, though he voted against it, that a law of a similar nature had passed in Scotland, and that the whole kingdom, clergy as well as laity, found the very best effects from it.

Mr. *Dowdeswell* spoke well for the Bill.

Mr. *Edmund Burke* :*

Sir; if I considered this Bill as an attack upon the church, brought in for the purpose of impoverishing and weakening the clergy, I should be one of the foremost in an early and vigorous opposition to it.

I admit, the same reasons do not press for limiting the claims of the church, that existed for limiting the crown by that

"It was replied on the other side, that most of these objections were guarded against by the provisions of the bill, in which the limitation is considerably extended in favour of the clergy, and a period of three incumbencies added to the sixty years which are allowed to the crown in the same case; that the gentleman who moved for the bill, and those who supported it, wished, and were ready, to admit of any further ease or advantage to the poor parochial clergy that could be pointed out, and that did not strike at the principles of the bill; and that the first of these had already made his proposal to the two metropolitans, and desired their lordships' assistance in it. But that in fact, the poor clergy were only the mask upon this occasion to screen the rich; that poverty was used as an instrument to protect riches, and necessity employed, to guard and defend luxury and superfluity. The motion was opposed by the whole force of administration, and it was much complained of, that a bill brought in upon public ground, and apparently for the public benefit, should not be allowed a reading. The majority, however, was not so great as might have been expected, the numbers being 117, to 141, who opposed the question." Annual Register.

* See Burke's Works, vol. 10, p. 142, 8vo edit. 1812.

wisest of all laws, which has secured the property, the peace, and the freedom of this country from the most dangerous mode of attack, which could be made upon them all.

I am very sensible of the propriety of maintaining that venerable body with decency (and with more than mere decency). I would maintain it according to the ranks wisely established in it with that sober and temperate splendour, that is suitable to a sacred character invested with high dignity.

There ought to be a symmetry between all the parts and orders of a state. A poor clergy in an opulent nation can have little correspondence with the body it is to instruct, and it is a disgrace to the public sentiments of religion. Such irreligious frugality is even bad œconomy, as the little that is given, is entirely thrown away. Such an impoverished and degraded clergy in quiet times could never execute their duty, and in time of disorder would infinitely aggravate the public confusions.

That the property of the church is a favoured and privileged property, I readily admit. It is made with great wisdom, since a perpetual body with a perpetual duty ought to have a perpetual provision.

The question is not the property of the church, or its security. The question is whether you will render the principle of prescription a principle of the law of this land, and incorporate it with the whole of your jurisprudence; whether, having given it first against the laity, then against the crown you will now extend it to the church.

The acts, which were made, giving limitation against the laity, were not acts against the property of those, who might be precluded by limitations. The act of quiet against the crown was not against the interests of the crown, but against a power of vexation.

If the principle of prescription be not a constitution of positive law, but a principle of natural equity, then to hold it out against any man is not doing him injustice.

That tithes are due of common right is readily granted;—and if this principle had been kept in its original straitness, it might indeed be supposed that to plead an exemption was to plead a long-continued fraud; and that no man could be deceived in such a title: as the moment he bought land, he must know that he bought land tithed. Prescription could not aid him,

[VOL. XVII.]

for prescription can only attach on a supposed *bonâ fide* possession.

But the fact is, that the principle has been broken in upon. Here it is necessary to distinguish two sorts of property.—1. Land carries no mark on it to distinguish it as ecclesiastical, as tithes do, which are a charge on land; therefore, though it had been made inalienable, it ought perhaps to be subject to limitation. It might *bonâ fide* be held.

But first it was not originally inalienable: no, not by the Canon Law, until the restraining Act of the 11th of Elizabeth. But the great revolution of the dissolution of monasteries by the 31st H. 8. ch. 13, has so mixed and confounded ecclesiastical with lay property, that a man may by every rule of good faith be possessed of it.

The statute of queen Elizabeth, ann. 1, ch. 1, gave away the bishop's lands.

So far as to lands.

As to tithes, they are not things, in their own nature subject to be barred by prescription upon the general principle. But tithes and church lands, by the statutes of Henry 8, and the 11th Eliz. have become objects *in commercio*; for by coming to the crown they became grantable in that way to the subject, and a great part of the church lands passed through the crown to the people.

By passing to the king, tithes became property to a mixt party; by passing from the king, they became absolutely lay property; the partition-wall was broken down, and tithes and church possession became no longer synonymous terms. No man therefore might become a fair purchaser of tithes, and of exemption from tithes.

By the statute of Elizabeth, the lands took the same course, (I will not enquire by what justice, good policy and decency) but they passed into lay-lands, became the object of purchases for valuable consideration, and of marriage-settlements.

Now, if tithes might come to a layman, land in the hands of a layman might be also tithe-free. So that there was an object, which a layman might become seized of equitably and *bonâ fide*; there was something, on which a prescription might attach, the end of which is to secure the natural well-meaning ignorance of men, and to secure property by the best of all principles, continuance.

I have therefore shown that a layman may be equitably seized of church lands—2. Of Tithes—3. Of exemption from Tithes;

[X]

and you will not contend that there should be no prescription. Will you say that the alienations made before the 11th of Elizabeth shall not stand good?

I do not mean any thing against the church, her dignities, her honours, her privileges, or her possessions. I should wish even to enlarge them all; not that the church of England is incompetently endowed. This is to take nothing from her but the power of making herself odious. If she be secure herself, she can have no objection to the security of others. For I hope she is secure from lay-bigotry and anti-priestcraft, for certainly such things there are. I heartily wish to see the church secure in such possessions as will not only enable her ministers to preach the gospel with ease, but of such a kind as will enable them to preach it with its full effect—so that the pastor shall not have the inauspicious appearance of a tax-gatherer;—such a maintenance as is compatible with the civil prosperity and improvement of their country.

Mr. *Charles Fox* spoke well on the same side, in answer to the Attorney General, who had principally opposed bringing in the Bill, as not framed in such a manner as to obviate the inconveniencies complained of.

Mr. *Seymour* spoke again, and said, that this was the first time since he had sat in parliament, that a minister objected even to having a Bill read, which was evidently calculated to promote a public good, by redressing a public grievance; which, considering his candour, was too hard a measure; that the poor clergy were only the mask used upon this occasion to screen the rich: that poverty was handled as an instrument to protect riches, and necessity made use of to guard and defend luxury and superfluity. Why had his lordship, if the poor clergy were his care and regard, lately given his brother a bishopric of 2000*l.* per ann. and had added to that two livings *in commendam*, which ought to have been the benefit of the parochial clergy? Why did not the noble lord mention the poor clergy as his object, when he acquainted him with the contents of his Bill, &c. Was he to understand, when the noble lord appeared smiling and courteous, and made no objection, that at that moment his lordship meant opposition? He acknowledged that he did not understand his lordship's ministerial countenance, having never attended his levees; but, for the future, he should understand

that when he apparently approved—he meant to oppose.

This was giving lord North an opportunity which he made the most of. Among other things he observed, that it was the etiquette of the minister, if he could not grant the favour asked of him, at least to send home the person refused in good humour. This was very well understood by courtiers: but for such ignorant honest country gentlemen as the hon. member, he thought it right to explain, that when he only nodded, or squeezed the hand, or did not absolutely promise, that he always meant No: which produced a great and long laugh.

The House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Seymour	- -	} 117
	{ Mr. Vansittart	- -	
NOES	{ Mr. T. Townshend, jun.	} 141	
	{ Sir Alexander Gilmour		

So it passed in the negative.

Proceedings respecting the Delay of the Monmouth Writ.] Feb. 18. Enquiry was made concerning the delay of the writ to elect a new knight of the shire for the county of Monmouth. It appeared that the writ had been made out in due time, but that Mr. Wilmot, the lord chancellor's secretary, had sent a paper of instructions to the lord chancellor's messenger, whose business it was to forward the writ to Monmouth, directing him to send it by a careful messenger, who was also charged with a letter for Mr. Morris. The writ was not to be delivered to the sheriff, till the messenger had seen Mr. Morris. In consequence of these instructions a messenger was sent down, who went to Mr. Morris's house, and in his garden Mr. Morris came to him, and snatched the writ out of his hand, and then sent the messenger to a friend's house, at a few miles distance, to stay there that night. The next morning he received a note from Mr. Morris to go to Gloucester, and he would meet him, and give him back the writ. At Gloucester he sent to him, to meet him at Bath, but neither did Mr. Morris come there; so he saw no more of the writ, but returned to London to complain to the person who sent him.

There seemed reason to believe this to be a collusion between Mr. Morris and the messenger. The use made by Mr. Morris of this delay in sending the writ to

the sheriff was to pass over one county court; by which means the election would happen at a town where his interest was strongest, as in Monmouthshire the courts are held alternately at Chepstow and Monmouth.

Several members wished to screen Mr. Morris, as many had been in the situation of getting possession of the writ; but after a short debate, it was ordered,

"That Valentine Morris, esq. do attend this House upon the 28th instant, to give an account to the House, of his having taken the writ for the last election of a knight of the shire to serve in this present parliament for the county of Monmouth, from the messenger who was sent down to deliver the said writ to the sheriff, and of the delay in the execution of the said writ."

February 28. The order of the day being read for the attendance of Mr. Morris, he was called in to the bar; and being asked by Mr. Speaker, what he had to say in answer to the charge that had been made against him, he acknowledged that the said writ did come into his hands on the 5th of June last, and was not delivered to the sheriff till the 21st; but assured the House, that he did not take the writ from the messenger by force; but that the said messenger did freely deliver the same to him: that, when he took the writ, he did not mean thereby to delay the election; but some doubts arising with respect to the place of election, and whether the county court ought not to be held at Monmouth, which he said he much wished, fearing there would not be a fair election at Newport; that he sent several expresses to London for the opinion of counsel, which delayed the delivery of the writ; and that the said delay had been very detrimental to his interest at the time of the election; and added, that no person was blameable for any part of this transaction but himself and Samuel Long the messenger: that he was extremely sorry for the trouble which he had given; that he was very sensible of his offence; and humbly submitted himself to the House. And then he was directed to withdraw.

Mr. Harley said, that having taken a leading part in this affair, he could not now sit down without making a motion to support the honour and dignity of that House: that he wished much to avoid, and hoped the House would not think he meant, any

personal injury to Mr. Morris, but he thought the dignity of the proceedings of that House should be strictly adhered to. He then moved, "That Valentine Morris, esq. having taken the writ for the last election of a knight of the shire to serve in this present parliament for the county of Monmouth, from the messenger who was sent down to deliver the same to the sheriff, and having delayed the delivery thereof for 15 days, is thereby guilty of a violation of the law, and a breach of the privilege of this House."

Lord Howe said, he thought the House was so tied down by its customary way of punishment upon these occasions, that there seemed to be no medium of sentence between an absolute discharge and the reprimand on the knees; the former he thought too little, the latter too disgraceful to a gentleman; and wished that some way might be hit upon to preserve the dignity of the House, and to prevent the offence being committed in future, but was much afraid there was none; he therefore said that he should move the previous question, which he did, and was seconded by Mr. Dempster.

Mr. Thomas Townshend said, that he was also very much astonished that there was no medium between a discharge and a reprimand upon the knees, which latter he abhorred; but that he intended to move, by way of amendment, that he be reprimanded standing; and that afterwards he meant to move a general order to say, That no reprimand be given by the Speaker in future, upon the person at the bar kneeling, unless particularly expressed so in the motion and resolution of the House.

Mr. Solicitor General Wedderburn said, that he thought the House must be a very odd and uncommonly formed society, or tribunal, in which there was no power allowed to proportion the punishment to the crime, or to mitigate their judgment with mercy; that they who had made the order, could certainly alter that order; and that he hoped they would now do it.

Many gentlemen were much against the previous question, as they said it was making a great stir, which would end in nothing. The generality of the House seemed to wish that some punishment might be inflicted, but they could not agree what should be done consistently with the forms of the House; they all seemed to agree, that the offence should be described in words of the highest ag-

gravation, but that the punishment should be slight. A compliment ought not to be paid to the crime, but to the criminal. Many alterations were proposed to be made, but to no effect. The previous question was one thing that stood in the way, till withdrawn. At last, after a deal of contention and confusion, the previous motion was withdrawn by consent of the House, and the motion, in its original state, passed without a division, on intimation of the following motion, which was moved by Mr. Stanley, and carried: "That the said Mr. Morris, having acknowledged his offence, and submitted himself to the House, he be called in, and acquainted by Mr. Speaker, That the House, notwithstanding the greatness of the offence, taking notice of the very full and ingenuous manner in which he hath acknowledged the same, and expressed his concern for it, doth forbear to proceed any farther against him; and that he be discharged from any further attendance on this House."

Mr. Morris was accordingly called in to the bar, without the mace; and, standing there, was acquainted, by Mr. Speaker, with the said resolutions. And then he was directed to withdraw.

Standing Order of the House of Commons respecting the Reprimand of Delinquents at the Bar.] March 16. On the motion of Mr. Thomas Townshend, it was resolved, *nem. con.* That, when any person shall from henceforth be brought to the bar of this House, to receive any Judgment of this House, or to be discharged from the custody of the Serjeant at Arms attending this House, or from any imprisonment inflicted by order of the House, such person shall receive such judgment, or the order of the House, for his discharge, standing at the bar, unless it shall be otherwise directed in the order of the House made for that purpose.

Ordered, That the said Resolution be made a Standing Order of the House.*

* "Until this Order was passed, all delinquents received the judgment of the House upon his knees. The alteration made by this order was adopted from the humanity of the House; which often has occasion to inflict punishment on persons, that would be more sensibly affected by this ignominious manner of receiving their sentence, than by the severest species of penalty the House can impose." Hatsell.

Debate in the Commons on Dr. Nowell's Sermon, preached before the House on the 30th of January.] Feb. 21. The House having inadvertently thanked Dr. Nowell for his sermon on the 30th of January, it was published and delivered to the members. On reading it, there appeared in the members an universal detestation of the high church doctrines contained in it, it being to all intents a libel on King and people; but as the Thanks of the House had already been voted, they could not consistently censure it; but, as a side reflection, it was moved "That for the future, the Thanks of this House be not given for any Sermon preached before this House, until such Sermon shall have been printed and delivered at the door of this House." In the course of the debate, Mr. Thomas Townshend declared that the sermon ought to be burnt by the common hangman.* Lord North, though he could not defend the doctrines of the preacher, yet moved the order of the day, to get rid of such a reflection as this would have been upon him.

Among the exceptionable passages in the Sermon were the following:

"It has, indeed, been frequently asserted, that this tempest was raised by other causes; that the despotic ambition, the arbitrary proceedings and the tyrannical government of the king, after numberless oppressions patiently submitted to, roused, at length, the spirit of an injured people, in defence of their liberty and laws: that they had frequently applied for redress of grievances; had often petitioned for their rights, had used every method of persuasion and remonstrance without success, before they had recourse to those measures, which a sense of their injuries inspired, and necessity sufficiently justified. But to every unprejudiced person this

* Mr. Gibbon to Mr. Holroyd, Feb. 21, 1772. "To-day the House of Commons was employed in a very odd way. Tommy Townshend moved, that the sermon of Dr. Nowell, who preached before the House on the 30th of January, (*id est*, before the Speaker and four members,) should be burnt by the common hangman, as containing arbitrary, tory, high-flown doctrines. The House was nearly agreeing to the motion, till they recollected that they had already thanked the preacher for his excellent discourse, and ordered it to be printed. Nowell's bookseller is much obliged to the right hon. Tommy Townshend." Gibbon's Miscellaneous Works, vol. 1, p. 450.

apology for rebellion will appear as groundless as it is base. Their complaints preceded even their pretended grievances, and continued after those grievances were redressed. They felt indeed one, which to men of their cast will ever be a real grievance, the establishment of episcopacy in the church, and monarchy in the state, of both which their levelling principles were equally subversive.

"In vain shall we look for the beginning of these evils from any real or pretended grievances: from any undue stretches of prerogative, from any abuse of royal power, those favourite topics upon which the enemies of our constitution so vehemently declaim. No; whatever colour those pretences might lend to rebellion, the ground-work of it was more deeply laid in the principles of the times, in the factious zeal, and turbulent spirit of men, devoted to enthusiasm, phrenzy, and madness.

"And while we behold the bright resemblance of those princely virtues which adorned the royal martyr, now shining forth in the person of our gracious sovereign, let us earnestly address the throne of mercy, that the guilt of an ungrateful, abandoned people may not cause this sun to be withdrawn from us, nor quench the light of Israel."

February 25. Mr. Boyle Walsingham moved, "That the entry in the Votes of the House, of the 31st of January last, 'That the Thanks of this House be given to the reverend Dr. Nowell, for the Sermon by him preached yesterday before this House, at St. Margaret's Westminster, and that he be desired to print the same: and that sir William Dolben, and Mr. Alexander Popham do acquaint him therewith;' might be read." And the same being read accordingly; he next proposed, "That the said Entry be expunged from the Votes of this House."

General Irwin seconded the motion.

Sir Roger Newdigate said, it was very extraordinary to make such a motion without repeating the passages which were exceptionable; he desired the gentleman would point them out, that the House might form a judgment.

Mr. Boyle Walsingham pulled the printed Sermon out of his pocket; and, in his hurry, not readily finding the passages he alluded to, turned over several leaves: some of the members who sat near him, endeavoured to save time by pointing out

to him the passages: this producing some conversation and joking,

Sir William Dolben rose to order; and addressing himself to the Speaker, said: Sir, it is very plain to me that the hon. gentleman has neither heard nor read the Sermon he has censured; since he is not able even with the assistance of those who sit near him to find out the passages which he has been told are exceptionable. Gentlemen should not condemn upon hearsay; much less should they venture upon such slight authority to make serious motions in this House. But, Sir, I will save the hon. gentleman the trouble of finding out the passages he is looking for; and as I was the person who moved the thanks for this Sermon, I will inform the House how that happened. I moved the thanks of this House to Dr. Nowell for his Sermon, at the desire of your Speaker, who heard the Sermon preached: my motion was seconded by Mr. Popham, who likewise heard it preached: both these gentlemen knew what they did, and are equally concerned with myself to defend and justify the thanks which have been given. For my own part, I think that Dr. Nowell deserves for his Sermon the thanks he has received; and I shall continue to think so till I hear better reasons urged against it than any which have been hitherto produced. The passages objected to by an hon. gentleman when this matter was last mentioned in the House, were the following, [Here sir W. Dolben read the passages above given]. Now, Sir, I insist upon it that these words do not bear the construction which has been put upon them: they are proper; and well warranted both by the history of the times spoken of, and by the service of the church appointed for the occasion. Sir, I must think that the complaint against this Sermon proceeded from the hon. gentleman's spleen: for, Sir, the temper with which he threw the Sermon three times on the table, declaring it ought to be burned by the common hangman, convinced me, that at that moment at least his bitterness and zeal made him as desirous to burn the preacher as his Sermon.

Mr. Popham. I acknowledge that I heard the Sermon preached; and I expressed to sir W. Dolben my disapprobation of it: but sir William insisted that I must have been mistaken, and that the Sermon contained none of those offensive expressions I had mentioned. As sir William was positive to the very letter in the Sermon, I supposed I had been mis-

taken; and yielding to his interpretation, and better memory, I consented to second his motion for thanks. But I have read the Sermon since it has been printed, and find I have been misled by sir William Dolben; for I declare, I think it the most exceptionable Sermon I have ever seen.

Mr. *Speaker*. As I have been called upon, I hope the House will indulge me with a few words. It is true I heard the sermon, but I did not approve of it. I highly disapproved it, and I did not conceal my sentiments: I took care to mention the disgust it gave me, to a gentleman who I was sure would tell the preacher of it again. Having done so, concluding that the offensive passages would be expunged and not printed, I called upon sir W. Dolben to know if he intended to move the thanks for the Sermon as a customary compliment of course.

Mr. *Thomas Townshend*. The hon. gentleman who made the motion of thanks, and has endeavoured to justify them by commending the offensive passages of the Sermon in question, has very improperly attributed my complaint to spleen and want of temper. It proceeded from a very different motive.—From the most mature and cool consideration and enquiry into the causes of the civil wars and the history of Charles's time, I am of opinion that the persons who first took up arms against that prince, were not only blameless, but praise-worthy. Had it been my misfortune to have lived when a necessity like that called for it, I should not have hesitated to have taken arms likewise. But because I do not wish to see such days, I am for censuring the arbitrary doctrines contained in this Sermon, being thoroughly persuaded that the encouragement of Mainwaring, Sibthorp and Montague, who preached then the same doctrines which Dr. Nowell has now revived, was more pernicious to Charles the 1st, than the efforts of all his personal enemies—if he had any.

Mr. *Frederick Montague*. Sir, the reproach which has just been cast upon the name of Montague, is not the occasion of my rising at this time. I feel it impossible that I should have the least relation to such a man; and if I had, I should not attempt to defend his writings which I abhor. A different consideration has inclined me to speak on this occasion: the clergy of this country are in a very disagreeable situation when they are obliged to preach on the 30th of January. I remember

when a clergyman was refused the thanks of this House because he preached in the opposite extreme to Dr. Nowell. And now we are going to expunge the thanks to this gentleman for a reason directly contrary to that which caused the refusal to the other. What can the clergy do? If they follow the service of the church for that day, they must be condemned by reason, truth and justice: if they contradict the terms and spirit of the service, they will not find themselves without reproach and censure on that account. The consciences of the clergy and the understanding of their congregations, and the rights of humanity, ought to be relieved from this insult. I therefore give notice, That with the leave of this House, I intend to bring in a Bill to abolish that statute by which our church service is appointed for the 30th of January.

Sir *Roger Newdigate* with extreme violence and heat justified both the preacher and Charles the 1st. He read some extracts from a sermon by Fleetwood; in which he preached the same doctrine as Dr. Nowell; and yet sir Roger observed that Fleetwood was not a Tory, but was persecuted afterwards by queen Anne's Tory administration. Sir Roger however acknowledged that he could not defend every act or particular part of the conduct of Charles; he said he must own he had one fault, which was complying too easily with the wishes of his people: and he instanced the execution of Strafford, whose warrant Charles signed although he knew him innocent. Sir Roger said that no historian of any credit or abilities had ever attempted to defend the men who opposed Charles; one historian indeed had endeavoured to do it, but no regard was paid to that history by any person, as the author was known to entertain notions and profess principles diametrically opposite to our religion and government. Sir Roger dwelt much on the princely virtues of the blessed martyr, he exalted his learning, piety, &c. &c. and concluded by declaring, that, in his opinion, Charles the 1st as a king and a gentleman, possessed virtues which were worthy of the imitation of any person in any age or country. Sir Roger moved then for the order of the day.

Lord *Folkestone* said, he had a personal knowledge of Dr. Nowell, and a great regard for him; that he could not suppose the doctor had any bad intention, nor indeed did it appear that his expressions went beyond those of the service which

was appointed by law to be read on that day. His lordship owned that the service of the day ought not to be the guide of any Englishman's doctrine; because the service was drawn up by Father Peters, the confessor of James the 2nd.

Captain *Phipps* moved for the Journals of the House of the 12th of May 1660, to be read, where one Mr. Lenthall was reprehended for saying in the House of Commons, that he that drew his sword against the king, committed as high an offence as he that cut off the king's head.* This debate ended with reading the Journal.

The question being put, That the orders of the day be now read; the House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Hervey	-	-	-	}	41
		Mr. Page	-	-	-	}	
NOES	{	Mr. Seymour	-	-	-	}	152
		Mr. Montagu	-	-	-	}	

So it passed in the negative. Then the main question being put,

Mr. *Sawbridge* said:—Sir; it will not be imagined that I rise to oppose the present motion, nor does it appear to want any support, the sense of the House being sufficiently declared by the division we have just seen, but I am called upon by some expressions that fell from one of the gentlemen in the last debate. He has passed his judgment very peremptorily upon historians, and their principles; and it is true that if toryism be the constitution of our church and state, those whom he has censured have deserved censure. If despotism be the just claim of an English king, the gentleman is very orthodox and his saint is justly canonized. He has talked much of the virtues, the great amiable qualities of Charles the 1st, whom yet he has confessed to be a tyrant and a traitor: to which amiable virtues I add, that he was also a liar. His injustice and treachery the gentleman has instanced by acknowledging that he sentenced to death his faithful servant whose zeal and innocence he never doubted. And it is notorious that this virtuous king would never have died upon a scaffold, if besides a whole reign of cruelty and oppression he had not likewise been found to be a liar convict. Had not his letters been intercepted by which he declared (even at the time of his most solemn assurances) that

he never meant to perform the promises he made to his people; had not these letters been intercepted, a transcendent act of edifying justice had miscarried, and Charles would never have been brought to the block. I am sorry, Sir, that the reverend preacher can find one advocate in this House to join with him in recommending the virtues of tyranny, treachery and falshood to his present Majesty for imitation. Sir, the chief inducement to the preacher for wishing his Majesty to copy closely the blessed martyr's example, is the only argument I know that can be urged against the present motion: the censure of the House of Commons upon Mainwaring, Dr. Nowell's predecessor, for the same doctrine, produced to that preacher a bishopric; the doctor hopes, and I fear, that our censure will have the same success.

Sir *William Dolben* rose only to say that, whatever others might have acknowledged, he never had and never would confess that Charles the 1st was a tyrant; on the contrary that he considered that monarch as a perfect pattern for royalty. He added, that he hoped every little piece of misconduct or error of a ministry, or even a king, was not to be counted tyranny.

The question was then put to expunge the thanks, and was carried without a division.

Debate in the Commons on the Bill for securing the Rights of Electors.] Feb. 27. Sir *George Savile* rose. He said this was an annual protest, which he now put in against the illegality and injustice of the proceedings of this House, with regard to the decision of the Middlesex election; that the House was severely stung by its own judgment; that we had cut the very branch on which we sat, and had sapped the foundation, and put the axe to the root of the body of the tree. He lamented much that the people were now lulled into a sleep while the thief broke into the house; he dreaded lest one day or other the precedent, which he called a little rag of a precedent, not enough to hide the uncomely parts, or even to cover its nakedness, should, by some wicked, ill-designing minister, be drawn forth to serve his purpose, and strangle the poor remains of life in this miserably wounded constitution. He wished not to detain the House long, and would say little more on the question, but propose it as his annual protest, and therefore moved, "That

* See vol. 4, p. 42.

leave be given to bring in a Bill for more effectually securing the rights of the electors of Great Britain, with respect to the eligibility of persons to serve in parliament."

Mr. *Coxe* seconded the motion. He observed, that had the question required any argument or elocution to support it, he should say nothing, but leave it to much abler debaters than himself: but as the question had been agitated the last session, he looked upon it that there was nothing new to be said upon the occasion, and should content himself with putting in his protest against the proceeding, to which that motion had reference.

Lord *North* said, that he rose only to put in his counter protest, which he hoped he should also annually do, whenever such a question arose; for that he looked upon the proceedings of the House, with regard to the Middlesex election, to have been highly consistent with justice, and to the law of the land; and that to his dying day he should continue to approve of the rectitude of those measures.

Mr. *Thomas Edwards Freeman* said some few words concerning his continuing in the same opinion as he was in last session. He thought the precedents upon which the House had founded their judgment in the decision upon the Middlesex election were strong and good ones, and approved of those measures.

The House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Byng	-	-	-	-	}	135
		Mr. Coxe	-	-	-	-		
NOES	{	Mr. T. E. Freeman	-	-	-	-	}	181
		Mr. Dundas	-	-	-	-		

So it passed in the negative.

Debate in the Commons on a Motion for a Bill to repeal the Observance of the 30th of January.] March 2. Mr. *Montague* began to make his promised motion, but was a small time interrupted by commodore *Hervey* moving to clear the House, which was accordingly done, no debate being allowed upon a standing order of the House, unless a regular motion is made for the repeal of it.

Mr. *Montague* then opened his motion in a very decent, proper manner, expressing himself as having the greatest regard for the church of England, that he was not a republican, nor could he subscribe to the doctrine of passive obedience and

non-resistance; he said he moved this out of respect to the church, and he hoped it was not too harsh a name to be given to the service for the observation of that day, if he should brand it with the name of impiety, particularly in those parts where Charles the first was likened to our Saviour; that the service was drawn up by archbishop *Sancroft*; and that he himself saw great and solid reasons for abolishing the observation of that day; that though it was a customary thing for gentlemen, if they did not succeed in their motions, to say that they would move them yearly, he now gave notice, that he would never move it any more, as no time was so proper as the present, when the spirit of the doctrines preached by Dr. *Nowell*, were still tinkling in the ears of the members. He mentioned several injuries done by Charles 1 to the people, as he thought highly justified their proceedings against him; he commended much the present glorious form of government; that no other would ever suit the disposition of this country; and, in order to abolish, as much as he could, any absurdity from church as well as state, he should move, "That leave be given to bring in a Bill to repeal so much of the act of the 12th of Charles the 2nd, ch. 30th, as directs that every 30th day of January shall be for ever kept and observed, in all his Majesty's dominions, as a day of fasting and humiliation."

Mr. *Coxe* seconded the motion.

Sir *Roger Newdigate* opposed any the least alteration in any part of the Common Prayer Book, declaring his unwillingness, particularly in the present instance, to have any attempt made on it. He applied himself to the Scotch members, and intreated them to support the Act of Union, on which their national religion depended; observing, that at some future period the high church might be again triumphant; and he then wished them to consider (if this barrier was removed) how they would like to have bishops, and a liturgy forced on them.

Mr. *Stephen Fox* said, he was against abolishing the ceremony of the day; that he thought it did no harm, unless (addressing himself to the Speaker) the obliging you, Sir, to go to church once a year; that the day was almost forgot as a fast; that for his part he never fasted; and, that he looked upon the motion as not very material.

Sir Thomas Cave made some few observations, and concluded with a story he had heard of queen Caroline, who went to see the pictures of one Richardson, of all the kings and queens that had ever reigned: they were hung up in order of succession; but between Charles the 1st, and Charles the 2nd, was Oliver Cromwell: queen Caroline asked the painter what that was in the middle, whether he meant it for a king? He said No, to be sure he was no king, but that it was a good memento to all kings to have an Oliver Cromwell by the side of them.

The House then divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Montagu	-	-	-	}	97
		Mr. Coxe	-	-	-		
NOES	{	Mr. Fox	-	-	-	}	125
		Mr. Cooper	-	-	-		

So it passed in the negative.*

Motion for a New Writ in the room of Mr. Henry Vansittart supposed to be lost in the Aurora.] Mr. Dodd moved for the issuing a writ for the election of a burgess for Reading, at the desire of that corporation, in the room of Mr. Henry Vansittart, who was supposed to be lost in the Aurora. This motion was opposed, and the House was of opinion, that it was not mere probability that ought to have weight with it, but that matter of fact was the only ground for them to proceed upon. In such a case was a new writ to be granted, and a member chosen in consequence of it, if Mr. Vansittart should be alive and return, it would throw the House into a difficulty they would not know how to get rid of. In the case of general Stanwix, the distance between Ireland and England was so short, that there was no probability of such a vessel being thrown upon any coast thereabouts, but must be heard of in a few days. The case of captain Cheap, who went out with commodore Byron, was mentioned, as having been missing four years, and after-

wards returned; and several other strong cases, sufficient for the House to form their judgment upon, and as no fact of Mr. Vansittart's* decease appeared, the House refused to grant a writ.

Debate on Mr. Sawbridge's Bill to shorten the Duration of Parliaments.]

March 4. Mr. Alderman Sawbridge said:

Sir; the motion I am now going to make is precisely the same as that which I made in this House last year. My own want of health, and some other reasons, delayed it so late in the season last year, that I was constrained to make it then in a very thin House. To prevent a similar situation this year, I took the liberty to desire a call of the House: notwithstanding which call, I am concerned to see a question of such national importance so poorly attended by the members. I can pretty well understand the meaning of this inattention: the ministerial gentlemen, who are liberally paid for opposing every measure that would be beneficial to the people, think it sufficient (because it will earn their wages) if they come here soon enough to give their votes against it. I will not, Sir, take up your time by apologies for my own inadequate abilities; let those who have greater apologize that such a task is left to me; however, I will lessen that objection by stating what I have to say as concisely as possible.

That legal, equal, and free system of government, which is either our constitution or its foundation, was first introduced into this kingdom by the Saxons. It was a leading principle with them, that wherever an officer, who was entrusted with power, could, by the abuse of that power, prejudice the people, that officer was elective; and those elections were at least annual, if not more frequent. When the heptarchy was reduced to a monarchy under Alfred, all the Saxon laws and customs were recognized, and an Act was made, that a parliament should be held twice a year at least. In the time of Edgar the same statute was re-enacted; and this system was religiously adhered to till the Norman conquest. At that period a violent shock was given to our excellent constitution; that legal, equal, and free form of government, which had been enjoyed

* "I mentioned the motion to abolish the fast of the 30th of January. Johnson. 'Why, Sir, I could have wished that it had been a temporary act, perhaps, to have expired with the century. I am against abolishing it; because that would be declaring it was wrong to establish it; but I should have no objection to make an act, continuing it for another century, and then letting it expire.'" Boswell's Life of Dr. Johnson.

* Mr. Henry Vansittart, who is supposed to have perished in his passage to India, was the father of the right hon. Nicholas Vansittart, the present Chancellor of the Exchequer (A. D. 1813.)—See Gent. Mag. vol. 41, p. 190.

in this nation for five hundred years, gave place to a monarchical tyranny. The common law of England was in part abolished; and the civil law, which had prevailed in Normandy, introduced in a great measure in its stead. From this time all was a scene of confusion; perpetual civil wars between king and people; the kings endeavouring to establish an absolute power, and the people to restore their laws and liberty. In these contests the people almost always prevailed; in consequence of which the kings, as often engaged solemnly to restore the ancient constitution: these solemn engagements they never, but as far as they were compelled, observed. At length, the people, wearied out by royal treachery, and not choosing any longer to trust these kingly promises, compelled king John, whom they had in their power, to sign the Great Charter. In that charter it is stipulated that parliament shall be restored. And accordingly (king John dying immediately after this stipulation) a parliament was called under his successor: but no truly constitutional parliament was held till the reign of Edward the 3d. In his reign, an Act was passed, that a parliament should be held once a year or oftener if necessary. That king reigned fifty years, and we have an account of forty-four parliaments during that period; so that it does not appear, that he himself kept strictly his own law of holding a parliament once a year; however, of this we are sure, that no parliament continued longer than one year. We do not meet with any long parliaments till the reign of Henry 8. That king, I believe, even in these times, and even by this House of Commons, will be allowed to have been a tyrant. Having attempted many wicked measures, which he could not carry to the utmost of his wishes with parliament, he determined to try what he could do without parliament; and for that reason, during some years of his reign, he called no parliament. At length, however, having more schemes against the constitution, to which he thought it advisable to give the colour of law, he employed his ministers and creatures to attempt to get a parliament returned, which would be entirely subservient to his will. In this his success was equal to his most sanguine wishes; for to that parliament were returned a great number of the king's friends. By means of these his friends, finding himself able to carry his worst purposes, he was in no hurry to part

with such a parliament: he therefore continued them by prorogation seven years; till at length they, either ashamed of what they had done, or afraid of what they might suffer, did themselves petition to be dissolved. Such was the honourable example of the first septennial parliament, which was ready to approve and sanctify any bloody or detestable act of this flagitious tyrant. The next parliament which sat for any considerable length of time, was the long parliament under Charles the 1st. Of their proceedings, the opinions of mankind are various: for my own part, I do not by any means intend to censure their conduct upon the whole, or to defend every one of their measures. The next long parliament was that under Charles 2, which (before men had seen the present) was, by way of distinction, reproachfully called the Pensioned Parliament. It is notorious of this parliament, that whenever any scandalous royal measure had been carried in that House of Commons, the members were invited to dinner, and found under their respective plates the sums which each man's prostitution was proportionably thought to deserve.

To remedy this evil of corruption, soon after the Revolution a triennial Bill was proposed. The measure frequently miscarried. It once passed both Houses, but king William refused his assent; however, the patriots of those days were not easily discouraged; they were not dismayed by their defeats, but increased their ardour in proportion to the occasion for it; they persevered, and at length, in 1694, the Triennial Bill passed and became a law. Against that law, however, some of the worthies of that age protested; and their protest was in the following words: We do dissent from this vote; because it tendeth to the continuance of the present parliament longer than, as we apprehend, is agreeable to the constitution of England.

Two years after the accession of the House of Hanover, the Septennial Bill passed. The best method of knowing the motives of those people who introduced and supported this measure, is to collect the arguments they used in its favour at the time the question was agitated; the only reason pretended was, that there had been a rebellion the year before, and that they were apprehensive, if the then parliament did not sit beyond its usual time, they should be frustrated in the great measure which they had at heart, namely,

the setting of the present family on the throne. I am in my own mind convinced, that the reason given was their true reason: I have so high an opinion of those men, that I cannot bring myself to think, that if they had foreseen the mischiefs consequent to that law, if they could have imagined the shameless corruption and prostitution which we see at this day, I cannot imagine they would ever have suffered, much less promoted, the fatal Septennial Bill. From that moment to this hour, a general system of corruption and venality has prevailed in this assembly; and men elected into this House no longer consider themselves as representatives of the people, but as persons who have purchased a beneficial lease; which they are by all and by any means to turn most to their own advantage. That this, Sir, is our present situation, is abundantly proved by the experience of every day. Sir, you have silently heard in that chair more than one member of this House dare to assert, that their constituents have no right to instruct them, and that they do not think themselves under any obligation to obey the instructions of those who sent them thither.

Sir, if any farther argument was wanting to justify my motion, for leave to bring in a Bill to shorten the duration of parliament, his Majesty himself has most graciously pleased to furnish the strongest in its favour: I mean the answer which he has been advised to give to the petition of sixty thousand electors of England, who have petitioned him for a dissolution of this parliament: their petitions, Sir, set forth, that this House of Commons has violated the right of election; and that their constituents have no farther confidence in them, but disclaim both them and their proceedings. To all these petitions, except one, his Majesty has been silent, disdaining even an answer to his subjects: to one of them indeed he was constrained to reply, and therefore his answer to the city of London must be considered as the answer to them all. He tells them, mocking their dutiful expressions, that he should ill discharge the duty of a father to his people, if he made so unconstitutional a use of his prerogative, as to grant their humble request.

Now, Sir, at the same time that his Majesty is advised to think it an unconstitutional use of his prerogative to dissolve this parliament at the request of the electors, who state that they are not their re-

presentatives, I shall take leave to tell you what his Majesty has been advised to think are constitutional and proper uses of his prerogative. It is a constitutional use, it seems, of his prerogative, to issue an illegal proclamation. It is a constitutional use of his prerogative, to grant a *noli prosequi* when a grand jury finds bills of indictment for breaches of the peace. It is a constitutional use of his prerogative to appoint to offices of great public trust Popish recusants incapacitated by law. It is a constitutional use of his prerogative to direct his troops wantonly to butcher his helpless, unarmed subjects; to support, defend, and reward, such as were most active in that butchery; and to return formal public thanks to them all for their alacrity in destroying those by whose honest industry both he and they are fed. It is a constitutional and an honest use of his prerogative, to order for execution misguided poor men, who were convicted upon a surreptitious rider of an unreasonable penal statute; notwithstanding the whole court, before whom they were tried, joined in representing to him that they did not believe the parties guilty, and recommended them as proper objects of his mercy. It is a constitutional use of his prerogative, to pardon malefactors convicted on the common law of England, of the most atrocious and aggravated murders: notwithstanding the judges before whom they were tried, represented to him, that they were convicted by the clearest evidence, and were by no means proper objects of his royal mercy. It is a constitutional use of his prerogative to prorogue a parliament in a sister kingdom, when regulations were to be made, without which their manufactures could not be carried on, and when none of the private business for the advantage of the country was finished, merely because they acted as real representatives of the people, and would not lend themselves to support the pernicious measures of the crown. It is a constitutional use of his prerogative to dissolve the American assemblies (though not requested by the electors), because they would insist on preserving the rights of their constituents, and would not become the creatures of the royal governors.

Such, and many more such, are the uses which his Majesty has been persuaded to make of his prerogative. Both the uses which he has made, and the uses which he has not made of his prerogative, added to the abuses of parliament,

are incontestible reasons for my motion. This, Sir, is all I shall at present say upon the question: if any objection shall be made, or argument urged against it, I will answer them as well as I am able. I will not therefore now take up more of your time, but conclude with a motion, that leave be given to bring in a Bill to shorten the present duration of parliaments.

Mr. Alderman *Townsend* seconded the motion, and said that his friend had moved it as a great constitutional question, and he hoped it would be considered as such; for his part he should always consider the question as one of the greatest that could come before that House: to make elections frequent would be to make them free: as his worthy friend and brother alderman had said so much upon the subject, he should content himself with seconding it.

Mr. *Coxe* observed, that he could not think the hon. gentleman had gone far enough; that it was the corruption of the times that would prevent a free election; that had he moved, or could find out a way to abolish that, he would readily join him in the present question: but whilst that subsisted, he could not come into the present question, as giving any prospect of a more free election and representation than at present.

The House divided. The Yeas went forth.

Tellers.

YEAS { Alderman Sawbridge - } 83
 { Alderman Townsend - }

NOES { Mr. Coxe - - - - } 251
 { Mr. Clayton - - - }

So it passed in the negative.

Debate in the Commons on the East India Judicature Bill.] March 30. Mr.*

* “ Notwithstanding the implied recommendation that had been so early given, for an enquiry into the affairs of the East India company, and the establishment of some regulations for their future government, the House had now sat near three months, without the smallest notice being taken of that business. The first notice that was taken of this business, was in consequence of a motion made, March 30, by the deputy chairman of the East India company, for leave to bring in a Bill for the better regulation of the company’s servants and concerns in India. This Bill had no smaller objects in view, than the restraining of the governor and council from all manner of trade, and the making of a total alteration in the court of judicature, and in the mode of administering

Sullivan moved for leave to bring in a Bill for the better Regulation of the Affairs of the East India Company, and of their servants in India, and for the due administration of justice in Bengal. He declared that the Bill had two objects, that of restraining the governor and council from all trade, and that of establishing a proper mode of administering justice, by extending the authority of the court of justice at Calcutta over all Bengal. The motion being seconded,

Mr. *Cornwall* opposed it as improper, without a previous enquiry into the state of facts, on which, as grounds, the act was to give the Company a new charter might be grounded.

Mr. *Rumbold* then made a speech, in which he endeavoured to exculpate the Company’s servants, and to paint the situation of Bengal in a very favourable light; declaring that, as an innocent man, he wished for an enquiry, that those who were unjustly traduced might be distinguished from the persons really guilty.

In the course of this debate, lord Clive, in a long and eloquent speech, defended himself from late publications and accusations against him from the court of directors. This he did in a manner very honourable to himself. He also, as well as some others of the Company’s servants, laid great blame on the court of directors, and the general courts. Governor Johnstone replied to him. The speeches of lord Clive and governor Johnstone are here printed from their own corrected copies.

Lord *Clive* rose and said:

Sir; it is with great diffidence that I attempt to speak to this House, but I find myself so particularly called upon, that I must make the attempt, though I should expose myself in so doing. With

justice in Bengal; besides greatly enlarging the company’s powers with respect to its servants, and the laying of many new restrictions upon them.

“ The reasons urged in support of the motion were, that the bad state of our affairs in India was owing to the little power the court of directors had to punish their servants, either for disobedience to their orders, or for malpractices in their several departments; that nothing could contribute more to those enormities, than that solecism in reason and policy, of allowing the governors of distant countries to become traders and merchants; and that the judicature at Bengal was established when we had only a small territory, and was totally unequal to the administration of justice in so vast

what confidence can I venture to give my sentiments upon a subject of such national consequence, who myself stand charged with having been the cause of the present melancholy situation of the Company's affairs in Bengal? This House can have no reliance on my opinion, whilst such an impression remains unremoved. The House will therefore give me leave to remove this impression, and to endeavour to restore myself to that favourable opinion, which, I flatter myself, they entertained of my conduct before these charges were exhibited against me. Nor do I wish to lay my conduct before the members of this House only;—I speak likewise to my country in general, upon whom I put myself, not only without reluctance, but with alacrity.

It is well known that I was called upon, in the year 1764, by a general court, to undertake the management of the Company's affairs in Bengal, when they were in a very critical and dangerous situation. It is as well known, that my circumstances were independent and affluent. Happy in the sense of my past conduct and services, happy in my family, happy in my connections, happy in every thing but my health, which I lost in the Company's service, never to be regained. This situation, this happiness, I relinquished at the call of the Company, to go to a far distant, unhealthy climate, to undertake the envious task of reformation.—My enemies will suppose, that I was actuated by mercenary motives. But this House, and my country at large,

a dominion as we now possess in that part of the world.

"It was said on the other side, that it was unparliamentary to bring in a Bill to redress a grievance, without some prior proof that the grievance existed; that the House ought first to enter into an enquiry concerning our present situation in India, and the causes that led to it; that it was to be feared the enquiry would shew, that the evils lay too deep to be remedied by the proposed Bill; that it would be almost impossible to prevent the company's servants from trading, directly or indirectly; that the sending out a few persons learned in the laws of England, as judges, was very inadequate to the purposes of executing the laws in so vast a tract of country; and that the measure would be premature, as we had not yet determined by what laws the inhabitants should be governed. The motion was however carried, and a Bill was some time after brought in accordingly.

"As this Bill was totally laid by after the second reading, we only take notice of it, to shew in what manner it led to the enquiry that was immediately begun into the affairs of the

will, I hope, think more liberally. They will conceive that I undertook this expedition from a principle of gratitude, from a point of honour, and from a desire of doing essential service to that Company, under whose auspices I had acquired my fortune and my fame.

My prospects on going abroad were by no means pleasing or encouraging; for after a violent contest, thirteen directors only were chosen, who thought favourably of my endeavours to serve the Company; the other eleven, however well they might wish to the Company, were not willing that their good purposes should be accomplished by me. They first gave all possible obstruction to my acceptance of the government, and afterwards declined investing me with those powers, without which I could not have acted effectually, for the benefit of the Company. Upon my arrival in Bengal, I found the powers given were so loosely and jesuitically worded, that they were immediately contested by the council. I was determined, however, to put the most extensive construction upon them, because I was determined to do my duty to my country.

Three paths were before me. One was strewed with abundance of fair advantages. I might have put myself at the head of the government as I found it. I might have encouraged the resolution which the gentlemen had taken, not to execute the new covenants, which prohibited the receipt of presents: and although I had executed the covenants myself, I might

company, and probably in some measure to the great revolution which has since taken place in them. It could scarcely indeed be expected, that a Bill of such importance, brought in so late in the season, could have passed, as the train of investigation which must necessarily arise from it would have been sufficient to have taken up much of the time, if not the whole, of a long session.

"In the debates upon this occasion, much altercation arose, and many long charges and defences were made, between some gentlemen who were leaders of parties, or had considerable influence in the India courts, and some others, that had acquired vast fortunes in the company's service abroad. These matters would have been of little consequence to the public, if, through the heat that attended them, and perhaps the animosity from whence they proceeded, the conduct and affairs of the company, and the transactions of her servants, had not been laid open in such a manner, as evidently shewed, that they merited a strict enquiry, and wanted much regulation." *Annual Register.*

have contrived to return to England with an immense fortune, infamously added to the one before honourably obtained. Such an increase of wealth might have added to my weight in this country, but it would not have added to my peace of mind; because all men of honour and sentiment would have justly condemned me.

Finding my powers thus disputed, I might in despair have given up the common-wealth, and have left Bengal, without making an effort to save it. Such a conduct would have been deemed the effect of folly and cowardice.

The third path was intricate. Dangers and difficulties were on every side. But I resolved to pursue it. In short, I was determined to do my duty to the public, although I should incur the odium of the whole settlement. The welfare of the Company required a vigorous exertion, and I took the resolution of cleansing the Augean stable.

It was that conduct which has occasioned the public papers to teem with scurrility and abuse against me, ever since my return to England. It was that conduct which occasioned these charges. But it was that conduct which enables me now, when the day of judgment is come, to look my judges in the face. It was that conduct which enables me now to lay my hand upon my heart, and most solemnly to declare to this House, to the gallery, and to the whole world at large, that I never, in a single instance, lost sight of what I thought the honour and true interest of my country and the Company; that I was never guilty of any acts of violence or oppression, unless the bringing offenders to justice can be deemed so; that as to extortion, such an idea never entered into my mind; that I did not suffer those under me to commit any acts of violence, oppression, or extortion; that my influence was never employed for the advantage of any man, contrary to the strictest principles of honour and justice; and that so far from reaping any benefit myself from the expedition, I returned to England many thousand pounds out of pocket.—A fact of which this House will presently be convinced.

The House will, I hope, permit me to lay before them, a state of the charges I have alluded to, as well as of the manner in which they were conveyed to me.

The first public intimation I had of them, was by the following Letter from the Company's secretary.

"My lord; the court of directors of the East India Company, having lately received several papers, containing charges respecting the management of the Company's affairs in Bengal, wherein your lordship is made a party, I am commanded to send to you the enclosed copies thereof, and at the same time to acquaint your lordship, that if you have any observations to make thereon, the court of directors would be glad to receive them as expeditiously as may be convenient to your lordship. I am with great respect, my lord, &c. &c. P. MITCHELL, Sec."

"*East India House, 7th Jan. 1772.*"

"The right hon. Lord Clive."

My reply was to the court of directors as follows:

"Gentlemen; I have received a letter from your secretary inclosing copies of several papers, which he informs me were lately received by you, containing charges respecting the management of the Company's affairs in Bengal, wherein I am made a party; and at the same time acquainting me, that if I have any observations to make thereon, you will be glad to receive them as expeditiously as may be convenient to me.

"You have not been pleased to inform me, from whom you received those papers; to what end they were laid before you; what resolution you have come to concerning them; nor for what purpose you expect my observations upon them.

"I shall, however, observe to you, that upon the public records of the Company, where the whole of my conduct is stated, you may find a sufficient confutation of the charges which you have transmitted to me. And I cannot but suppose, that if any part of my conduct had been injurious to the service, contradictory to my engagements with the Company, or even mysterious to you, four years and a half, since my arrival in England, would not have elapsed, before your duty would have impelled you to call me to account. I am, gentlemen, your most obedient servant.

"To the hon. the Court of Directors." CLIVE."

The charges I shall briefly state in the following order.

First, a monopoly of cotton.—Trade was not my profession. My line has been military and political. I owe all I have in the world to my having been at the head of an army; and as to cotton—I know no more about it than the pope of Rome.

The second charge against me is a monopoly of diamonds. And this also I shall get rid of in a few words.—There are only two channels by which a servant of the Company can, with propriety, remit his fortune. The one, by paying the money into the treasury in India, and receiving bills upon the Company, payable in England; the other by diamonds.

By the acquisition of the Duannee, and the successful endeavours of the select committee, the Company's treasury was so rich, that we could not have been justified in drawing bills upon the Company. It was necessary I should, in some mode, remit the amount of my jaghire. For this purpose, and for this only, I sent an agent into a distant and independent country to make purchases of diamonds. Those diamonds were not sent home clandestinely; I caused them to be registered: I paid the duties upon them, and these remittances, upon the whole, turn out three per cent. worse than bills of exchange upon the Company.—This is all I know of a monopoly of diamonds.

The third charge is, frauds in the exchange and in the gold coinage.—This is a subject very much out of my sphere. I am totally unacquainted with the proportions of alloy, and the mixture of metals. All I can speak to is the principle upon which we formed the plan of a gold coinage.

Every body knows, that silver is the only current coin in Bengal, and that gold is merely a species of merchandize. The select committee, apprehensive that the prodigious annual drains of silver to China and other places, would soon occasion a scarcity of that metal in Bengal, considered of means to obviate the bad effect of those exports. We knew that there must be great quantities of gold in the country, and we hoped to make it circulate in coin.—Hence the establishment of the gold currency. Whether it answered our purpose or not, I cannot say, as I did not remain in Bengal long enough to experience the effect of it. But this I know, that the assay and mint master, by whose judgment we were guided, was a very able and a very honest man, and has, I understand, given a full and satisfactory explanation of his plan to the court of directors. With regard to myself, I shall only assert, that I did not receive a farthing advantage from it, and that I never sent a single rupee or gold mohur to be coined in my life.

The fourth charge has this extraordinary

title.—A monopoly of salt, betle nut, and tobacco, and other commodities, which occasioned the late famine. How a monopoly of salt, betle nut, and tobacco, in the years 1765 and 1766, could occasion a want of rain, and scarcity of rice in the year 1770, is past my comprehension. I confess I cannot answer that part of this article. And as to other commodities, as they have not been specified, I cannot say any thing to them.—But with regard to the monopoly (as it is called) of salt, betle nut, and tobacco, I will endeavour to explain the whole of that matter, and the House will permit me to dwell the longer upon it, as it is a point particularly insisted on by my adversaries. It is a part of my conduct that may be objected to by those who are unacquainted with the subject. I know it has been misunderstood and misrepresented, even by some of my friends. They have imputed it to an error of judgment. Now however ready I shall always be to acknowledge such an error, yet I hope to convince this House, that no part of my conduct has been more unexceptionable, and that the plan, if it had been adopted by the court of directors, and strictly adhered to by the government in Bengal, would have proved not only advantageous to the Company, but also beneficial to the country: but the court of directors, alarmed at the word monopoly, seem never to have examined, and I am sure never thoroughly comprehended, the principles and effect of it.

Many years ago an expensive embassy was sent to Delhi, to obtain certain grants and privileges from the Great Mogul, in favour of the East India Company, and amongst others was obtained the privilege of trading duty free. The servants were indulged with this privilege, under the sanction of the Company's name.—The Company never carried on any inland trade. Their commerce has been confined to exports and imports only. It is impossible that the servants should have a more extensive right than the Company itself ever had. Yet they claimed a privilege of carrying on an inland trade, duty free. The absurdity of a privilege so ruinous to the natives, and so prejudicial to the revenues of the country, is obvious. At the revolution in 1757 no such claim was set up, nor was any such trade carried on publicly, or to my knowledge, during my government, which ended in the beginning of the year 1760.

The first appearance of this claim was

in governor Vansittart's time. The nabob Cossim Aly Cawn strongly objected to it: representing to the governor and council, the fatal consequences to the black merchants and to the revenues of his country. Mr. Vansittart was sensible of the justice of the nabob's complaints, and soon after entered into articles of agreement, that the English should carry on an inland trade in salt, paying a duty of nine per cent. which in fact was no remedy to the evil, because the natives paid infinitely more. The council disavowed this act of Mr. Vansittart, and insisted upon their right to all inland trade, duty free.—The nabob, enraged, threw open the trade throughout his country, and abolished all duties, in order that his own subjects might trade upon an equal footing with the English. This on the other hand obliged the council, who insisted that the nabob should not suffer even his own subjects to trade duty free, but that the English alone should enjoy that privilege. These transactions were not clearly known to the court of directors till the year 1762; when they disapproved of them in the strongest terms, positively forbidding their servants to carry on any inland trade whatsoever. It was nevertheless continued, and with exemption from duties, except in the article of salt: upon which a duty of two and a half per cent. only was agreed to be paid, by a treaty with the nabob Meer Jaffier, after the deposition of Cossim Aly Cawn.

Although the court of directors had been of opinion that the inland trade ought to be totally abolished; they, as well as the proprietors, thought the Company's servants might be indulged in it, under certain restrictions and regulations. In consequence of this idea, the general court, on the 18th of May, 1764, came to the following Resolution:

“Resolved, that it be recommended to the court of directors, to re-consider the orders sent to Bengal, relative to the trade of the Company's servants, in the articles of salt, betle nut, and tobacco; and that they do give such directions for regulating the same, agreeably to the interest of the Company and Subah, as to them may appear most prudent: either by settling here at home the restrictions under which this trade ought to be carried on, or by referring it to the governor and council of Fort William to regulate this important point, in such a manner as may prevent all future disputes betwixt the Subah and the Company.”

This Resolution was supported by the court of directors, who in their general letter to the governor and council, dated 1st of June, 1764, at the time I went out to India, issued the following orders.

Par. 54. “For the reasons given in our letter of the 8th of February last, we were then induced to send positive orders to put a final and effectual end to the inland trade in salt, betle nut, and tobacco, and all other articles whatsoever, produced and consumed in the country: to the remarks we made in that letter, we must add one observation, which is, it appears very extraordinary, that in a trade so extremely lucrative to individuals, the interest of the Company should not have been at all attended to, or considered.

55. “Those orders were sent, it is true, before we received the new treaty you entered into with Meer Jaffier Aly Cawn, upon his re-establishment in the subahship, in which it is agreed, that the English shall carry on their trade, by means of their own dustick, free from all duties, taxes, and impositions, in all parts of the country, excepting the article of salt; on which a duty of two and a half per cent. is to be levied on the rowanna or Houghly market price; wherein it is further agreed, that the late perwannahs issued by Cossim Aly Cawn, granting to all merchants the exemption of all duties, for the space of two years, shall be reversed and called in, and the duties collected as before.

56. “These are terms which appear to be so very injurious to the nabob and to the natives, that they cannot, in the very nature of them, tend to any thing but the producing general heart-burnings and dissatisfaction; and consequently there can be little reason to expect the tranquillity of the country can be permanent: the orders therefore, in our said letter of the 8th of February, are to remain in force, until a more equitable and satisfactory plan can be formed and adopted, which as it is impossible for us to frame here, destitute as we are of the information and lights necessary to guide us in settling such an important affair—

57. “You are therefore hereby ordered and directed, as soon after the receipt of this as may be convenient, to consult the nabob as to the manner of carrying on the inland trade in salt, betle nut, and tobacco, and the other articles produced and consumed in the country, which may be most to his satisfaction and advantage,

the interest of the Company, and likewise of the Company's servants.

58. "You are thereupon to form a proper and equitable plan for carrying on the said trade, and transmit the same to us, accompanied by such explanations, observations, and remarks, as may enable us to give our sentiments and directions thereupon in a full and explicit manner.

59. "In doing this, as before observed, you are to have a particular regard to the interest and entire satisfaction of the nabob, both with respect to his revenues, and the proper support of his government: in short, this plan must be settled with his free will and consent, and in such a manner as not to afford any just grounds for complaint.

60. "In the next place, the utmost care and attention must be bestowed in forming the said plan, that in some proper mode or shape, a just and equitable consideration be secured for the Company.

61. "If any inconveniences shall be apprehended to arise to the Company's investments, upon carrying on such an inland trade; you are to give us your full thoughts thereupon, and in what manner they may be obviated.

62. "You are to give your impartial and unbiassed thoughts also, whether the carrying on this inland trade may affect the just rights and privileges of the French, Dutch, or any other Europeans, and thereby tend to draw on any national altercations and embroils, which are by all means to be avoided: in forming the said plan, therefore, you are to be particularly careful to prevent these or any other evils of the like kind."

Notwithstanding these authorities, it has been asserted, that the select committee in Bengal, when they framed a plan for carrying on the trade in salt, betle nut, and tobacco, acted in disobedience to the orders of the Company. And to support this assertion, partial extracts have been produced of some of the Company's letters, which were in fact written in answer to those proceedings of former administrations in Bengal, of which I have already given some description.

When the select committee assembled in Bengal, they were determined upon a thorough reformation. They were determined at all events to do their duty.

It is necessary the House should know that there are but two ways by which gentlemen can acquire fortunes in Bengal—by the inland trade, and by presents.

[VOL. XVII.]

The export and import trade had been for some years dwindling away, and was not worth the attention of the servants. It was carried on chiefly by free merchants and free mariners, and they could scarcely live by it. The inland trade was, as I have shewn, permitted to be carried on upon some equitable plan, for the benefit of the Company, who had hitherto received no advantage from it, and likewise for the benefit of the Company's servants, who hitherto had swallowed up the whole.

With regard to the receipt of presents: that mode of raising a fortune was intended to be prevented by the new covenants. But we must consider a little the nature of the funds for presents. Every revolution in Bengal was attended with some diminution of the nabob's authority, and with some advantages to the Company. Cossim Aly Cawn, upon the deposition of Meer Jaffier, was obliged to make over to the Company, territorial possessions to the amount of between six and seven hundred thousand pounds per annum. Meer Jaffier, when he was reinstated in the subahship, added above sixty thousand pounds a month more; for the support of our army during the war: so that the Company became possessed of one half of the nabob's revenues.—The nabob was allowed to collect the other half for himself. But in fact, he was no more than a banker for the Company's servants, who could draw upon him as often, and to what amount they pleased.

The new covenants indeed, which prohibited the receipt of presents, were intended to prevent this mode of raising fortunes; but the select committee went much deeper; they struck at the root of the evil, by procuring the whole for the Company; which totally deprived the servants of this resource.

It was not expedient, however, to draw the reins too tight. It was not expedient, that the Company's servants should pass from affluence to beggary. It was necessary, that some emoluments should accrue to the servants in general, and more especially to those in superior stations, who were to assist in carrying on the measures of government. The salary of a counsellor is, I think, scarcely three hundred pounds per annum: and it is well known that he cannot live in that country for less than three thousand pounds. The same proportion holds among the other servants. It was requisite therefore, that an establishment should take place: and the

[Z]

select committee, after the most mature deliberation, judged, that the trade in salt, betle nut and tobacco, under proper regulations, might effectually answer the purpose. The great object of our consideration was, whether this trade could be regulated for the advantage of the Company, and also for the Company's servants; without oppressing the natives. We thought it could. The House will observe that I make no mention of the nabob; because the Company, to whom the revenues now belonged, stood in his shoes; a circumstance which seems never to have been thoroughly adverted to by the directors, even to this day.

Had we only formed our plan and deferred the execution of it, till the pleasure of the court of directors should be known, all the gentlemen in their service must in the mean time have been totally unprovided for. But the declared intention of the Company was, that the trade in salt, betle nut and tobacco, should be regulated:—not only for their own advantage, but for the advantage of their servants. A plan was accordingly framed. I was up the country at the time, employed in settling the treaty of peace with Suja ul Dowla, and obtaining from the Mogul, the grant of the Duannee. The plan was framed principally by Mr. Sumner: who took the medium price of salt, throughout the country, for above twenty years past; and fixed the price at from twelve to fifteen per cent. below that medium. Hence it was not probable, that any grievance should fall upon the poor: and the plan was settled for one year only, that we might have an early opportunity of completing afterwards what was originally intended as an experiment. A duty, however, of thirty-five per cent. upon salt was established for the Company, which amounted to about 120,000*l.* per annum: and all the Company's servants except writers, and also all the field officers of the army, had shares, according to their respective rank. But I soon found there was some defect in this plan. It was really a monopoly. The trade was taken out of the hands of some of the merchants. The proportion of the Company's servants was too large; the duty to the Company was too small: the agents appointed to sell the salt had made an improper use of their power; they had not strictly kept up to their contract, which was, that they should receive five per cent. upon the sale of salt, as a recompence for their trouble, and that

they should not enter into any trade for themselves, under a very severe penalty.

I therefore proposed a plan for the next year, which I think destroyed every idea of monopoly. The society, instead of employing agents up the country to dispose of the salt, were to sell it at Calcutta, and at the places where it was made to the black merchants only: who were each limited to a certain quantity of purchase, and tied down to a price for sale at every market town. The duty to the Company was now established at fifty per cent. which would produce 160,000*l.* per annum; the black merchants were to have the liberty of transporting the salt all over the country, free from every taxation or obstruction; and the strictest orders were issued, that no Englishmen, or their agents, should directly or indirectly have any farther concern in it.

With regard to the price, I must inform the House, that in Bengal salt stands the maker in about 2*s.* 6*d.* per maund, by the time it reaches Calcutta. A maund is eighty pounds. The duty to the Company, and the advantages to the servants, were stated at about two shillings and sixpence more, which makes upon the whole one hundred per cent. Salt in England, I am told, stands the maker in about eight-pence per bushel, or fifty-six pounds: and the duty is three shillings and fourpence per bushel, which is five hundred per cent. I have enquired into the salt trade in England. I think we settled it upon rather a better footing in India; for the quantity to be bought by any one dealer was fixed; and the price at which it was to be sold in every town throughout the kingdom, according to the distance from the salt pans, was also fixed.

In London, salt is sold at 5*s.* a bushel: which is something less than a penny a pound. In India, salt is sold by the maund, which is, as I have said, 80 pounds: and it comes to a rupee, or 2*s.* 6*d.* a maund, all expences paid, exclusive of the duty. The duty, as I have informed the House, is 2*s.* 6*d.* more.

Now I will suppose that salt, in Bengal, sold, under the second year's plan, at the very price fixed by the first year's plan: then it would stand the consumer in about three farthings a pound at Calcutta; a penny a pound at distant places; and five farthings a pound at Patna, which is one of the most distant parts, being about 1,200 miles by water from Calcutta.

The whole quantity of salt contracted

for by the society was 24 lacks of maunds: which multiplied by 80, for the number of maunds in a pound, make 192 millions of pounds. The number of inhabitants I shall take upon the hon. member's (Mr. Sullivan) computation, that is to say, 15 millions. I strike off five millions for infants and accidents. Then divide the 192 millions of pounds by the other 10 millions of inhabitants, and we shall find the quantity of salt consumed in one year, by the rich and by the poor, will be under 20 pounds each. To give the argument its utmost scope, I allow 20 pounds to the poor as well as to the rich man; although it is certain he does not consume half the quantity. These 20 pounds will cost the individual at Calcutta rather less than 1s. 3d.; in the center of the provinces, 1s. 8d.; and at Patna, the greatest distance, rather less than 2s. 6d. This is the utmost of every man's expence in the year for salt.

The lowest wages in Bengal are two rupees a month, which is 24 rupees, or 3l. per annum. The poor man can scarcely be said to be at any other expence than for eating. They drink nothing but water; they wear no clothes; the houses are built with mud or clay, thatched with straw. Now I leave the House to judge, whether the expence of from 1s. 3d. to 2s. 6d. a year for 20 pounds of salt, even to these the very poorest of the inhabitants, can be a grievance. The eyes of the world have been blinded by publications. The matter of fact is this: the grievance fell upon a number of black merchants, who used to live by that trade: for the Company's servants not only monopolize the salt, but, by virtue of their influence and power, bought it at what price they pleased, and sold it at what price they pleased.

To indulge my enemies to the utmost; I will allow for a moment, although it is not so, that in the intermediate time, between the farming of the salt trade by a Mussulman (for it was always a monopoly in the hands of Coja Wazed, or some person or persons who paid large sums of money to the nabob or his ministers for the exclusive privilege) and the regulations established by the select committee, salt was sold somewhat cheaper. What does that infer? It infers only this, that the Company's servants, by virtue of their power and authority, exonerated the salt of all those duties and exactions which it was formerly subject to, amounting per-

haps to 200 per cent. and then made a merit of selling it cheaper to the inhabitants; as if a set of men in this country, by their power and influence, were to decline paying the duty of 500 per cent. to government, and then boast of selling it at a lower price than had been usual. In fact, when the salt was what has been called an open trade, it was then the most monopolized, because the Company's servants traded in it to what extent and advantage they thought proper, as indeed they did in every other article of inland trade.

In short, the select committee established their plan upon experience and a thorough knowledge of the Company's interest: and the conduct of the court of directors, in abolishing it, was founded upon obstinacy and ignorance.

A short history of the conduct of these gentlemen will set the matter in its proper light.

I have said before, that the directors disapproved of the trade in salt, betle-nut, and tobacco carried on by the servants, from the first moment that they became acquainted with it.

They positively and repeatedly ordered, that they should have no concern in it, directly or indirectly; they declared that it was an infringement of the rights of the natives; that they had consulted the sages in the law, and that the servants were liable to prosecution for persevering in that illicit trade. After this, they agreed that the select committee should regulate this trade, in such a manner as might be advantageous to the Company and their servants, without injury to the nabob. The committee did regulate it: a very large profit was established for the Company: the servants, also, were amply provided for: and no oppression (under the committee's regulation) could possibly fall upon the people of the country. The court of directors disapproved of our plan, and did not substitute any in the room of it: neither did they establish any duties. They issued orders, that their servants, who acted as sovereigns, should totally relinquish this trade themselves, and endeavour to prevent its being monopolized by any rich overgrown merchant of the country; they meant that it should be laid open to the natives, and to them only, not seeing that their orders could not extend to the servants of foreign companies, who would of course gain considerably by that trade, of which the English were to be deprived.

In November, 1767, and not before, the court of directors came to a determination of allowing their servants, in lieu of this trade, two and a half per cent. upon the revenues: they then also, for the first time, thought of establishing a duty upon salt; they proposed fixing it so as that it should produce to the Company 31,000*l.* per annum. At this time I was in England, I heard accidentally what was in agitation. I expostulated with the court of directors by letter; I represented to them that they were doing the most manifest injury to the Company; that if those advantages which the select committee had proposed for the servants were disapproved of, they ought to be enjoyed by the Company: that those advantages and the duties together would amount to 300,000*l.* per annum, which I thought no inconsiderable object. I farther represented to them, that although they should give the servants two and a half per cent. on the revenues, in lieu of the salt trade, the gentlemen might still trade in that article, under the names of their banyans or black agents, to what extent they pleased. To these representations they paid no other attention than that of altering the proposed duty from 31,000*l.* to 120,000*l.* per annum. What was the consequence? The servants received the two and a half per cent. on the revenues; they traded in salt as much as ever,—but without paying the duty; and I am well informed that the Company, from the time of the abolition of the committee's plan to this hour, have not received a shilling duty. Finally, the court of directors suffered this branch of trade to revert to the very channel from whence had flowed all those abuses and all those misfortunes which they had so loudly complained of. This trade, contrary to their own ideas of equity to the natives, and contrary to the advice of the sages of the law, is now laid open to the English, and to every European, as well as native inhabitant of Bengal, Bahar, and Orissa. The consequences of this we are still to learn. As the case stands at present, the court of directors have in all this time (five years) given up no less than one million five hundred thousand pounds, which the Company ought to have received, if the emoluments taken from the servants had been added to the duty proposed by the select committee. And in this sum is not included the two and a half per cent. commission granted out of the revenues.

Having thus stated every thing material, relative to this matter, I submit to the consideration of the House, whether the plan adopted by the committee was for the benefit of the Company, or not. The House will observe, that I have spoken of the salt trade only; I omit mentioning the betle nut and tobacco trade; because the former is not an advantageous article, in comparison of the salt trade; and the latter, although a part of the plan of the committee, was totally relinquished.

The governor and council are accused of having entered into a combination, by bond, to support the society in spite of any orders from home. Mr. Bolts, in his book, has given a copy of the bond. The substance of the bond was stated in the public proceedings of the board sent to England for the information of the directors, and we applied to them for permission to renew the bond annually, if the plan of the salt trade met with their approbation. In that bond the committee of trade made themselves responsible for the duties. The contracts for the making of salt ran for a year. The society therefore could not be abolished before the end of the year, which was the 1st of September; and nothing more seems necessary to prove we had no idea of contesting any orders from home, but that on the contrary we resolved to obey, than to read to the House the following resolution of the select committee:

“Resolved, That the society of trade shall be abolished and the inland trade totally relinquished on the 1st day of September next, but that we fully express our sentiments in our next advices to the Company, respecting the advantages which would result to the service and to the country, for the continuance of this trade under the present restrictions.”

This resolution also confutes a particular accusation against myself; for the gentleman who laid the charges before the court of directors has roundly asserted, that although the Company disapproved of the plan of the society, no order was issued during my government for abolishing it.

I must in this place beg leave to inform the House, that I, as governor, had a proportion of advantage in this trade. What that proportion was, and in what manner I disposed of it, shall be clearly and accurately stated before I sit down.

I shall now proceed to the next charge against me, which is, *peculation of reve-*

ness. And here I must have recourse to a minute of mine, which stands recorded in the India House, because I think it will explain this matter much more fully than I can do by word of mouth, and the House will see in that Minute, the ground work of part of the Bill proposed to be brought in for the regulation of the Company's affairs abroad.

“ Lord Clive's Minute.

“ Our attention as a select committee, invested with extraordinary powers by the court of directors, has been constantly engaged in reforming the abuses which had crept into the several departments of this government. The important work has been steadily prosecuted, with zeal, diligence and disinterestedness on our parts; and the success of our labour gives us reason to hope, that our employers will be of opinion we have established many useful and necessary regulations. Many others however are still wanting, to complete our plan; but I doubt not that the same principles which have hitherto guided our conduct will continue to direct and justify the measures we have yet to pursue.

“ To place the president in such a situation, as will render his government honourable to himself and advantageous to the Company, appears to me an object of as much consequence as any that has been taken into our consideration. Where such immense revenues are concerned, where power and authority are so enlarged, and where the eye of justice and equity should be ever watchful, a governor ought not to be embarrassed with private business; he ought to be free from every occupation, in which his judgment can possibly be biassed by his interest. The extensive commercial affairs, the study of the finances, the politics of the country, the epistolary correspondence, the proceedings of council and committee; these are sufficient to employ every moment of his time, and I am confident they cannot be conducted with the requisite attention to the Company's interest, if the mind of the governor be diverted by complicated mercantile affairs of his own.

“ If we look back on those unhappy dissensions which have frequently brought the Company's possessions in Bengal almost to the point of destruction, we shall find that they have generally proceeded from the conduct of governors, who, too eager in the pursuit of private interest, have involved themselves in affairs which

could not be reconciled to the strict principles of integrity. To prevent scrutinies and discoveries, which might in any degree affect their honour, they have frequently been reduced to the necessity of conniving at abuses, which would otherwise have been brought to light and remedied. The welfare of this great Company should be the sole study of a governor: attached to that point alone, his measures could never be thwarted by the malice of opposition, because they would all be proposed for the public good; and actions will always be justified or condemned, from the principles on which they are founded.

“ Such a state of independency and honour must be highly eligible to a governor: and in my opinion it can only be acquired by cutting off all possibility of his benefiting himself either by trade, or by that influence which his power necessarily gives him in these opulent provinces.

“ I therefore propose, that the governor shall in the most public manner, in the presence of all the Company's servants, the mayor and aldermen, and free merchants, assemble at the mayor's court, take the oath and execute the penalty bond annexed.

“ The consideration I have proposed is, one and one eighth per cent. upon the revenues; excepting those arising from the Company's own lands at Calcutta, Burdwan, Midnapore and Chittagong.

“ Although by these means a governor will not be able to amass a fortune of a million, or half a million, in the space of two or three years, yet he will acquire a very handsome independency, and be in that very situation which a man of nice honour and true zeal for the service would wish to possess. Thus situated he may defy all opposition in council: he will have nothing to ask, nothing to propose, but what he means for the advantage of his employers; he may defy the law, because there can be no foundation for a bill of discovery; and he may defy the obloquy of the world, because there can be nothing censurable in his conduct. In short, if stability can be insured to such a government as this, where riches have been acquired in abundance, in a small space of time, by all ways and means, and by men with or without capacities: it must be effected by a governor thus restricted, and I shall think it an honour, if my proposal be approved, to set the first example.”

In the bond herein mentioned, and which I executed, was inserted a penalty of 150,000*l.*: fifty thousand of which was to go to the informer, and one hundred thousand to the Company, if the governor should be convicted of having benefited himself, directly or indirectly, beyond that commission. In addition to this was an oath to the same purport, and of as solemn a nature as could be devised. There were a few necessary exceptions in the bond and in the oath. The common interest for money was permitted to be received, till remittances could be obtained. The purchase of diamonds for remittance to England was allowed, and such presents as might be received under the new covenants were also allowed. But of this last exception I did not avail myself; for after I had executed the bond, every the most trifling present, even to the value of 6*d.*, was brought to the Company's credit.

A circumstance of allegation against me is brought from a letter I wrote to the court of directors, before I went abroad; in which I had expressed my disapprobation of the commission of two and a half per cent. that had been granted to governor Vansittart, on the Company's territorial possessions, notwithstanding which I had received a commission of one and one-eighth myself. The case was this—The court of directors did not think proper to restrain Mr. Vansittart in any respect, or degree. He executed no penalty bond. He took no restrictive oath. He had unlimited liberty to receive presents; to trade to any amount; and he had this commission of two and a half per cent. on the Company's territorial possessions into the bargain; in short he was at liberty to make what fortune he pleased. Now the commission of one and one-eighth per cent. which I received, was an establishment proposed not only for myself, but for all future governors in lieu of every thing, in consequence of giving up every emolument whatsoever that might be made in that station. The court of directors so far from disapproving of this commission, continued it to my successor.

Another charge is, that I took to myself these advantages arising from the salt trade, and the one and one-eighth commission, although I had declared in the letter which I have just alluded to, that I had no interested motives in accepting the government. With what justice this can be alledged against me, the House may immediately determine.

I carried out three gentlemen with me. These gentlemen I certainly meant to serve, but I meant to serve them in a way that should be honourable for themselves, and honourable for me; and that should at the same time be consistent with the interest of the Company. One was Mr. Maskelyne, a relation of mine. A friendship commenced between us in our early years. We began life together. We were both of us writers in the Company's service in the year 1745; we were both made prisoners in Madrass when it was taken by M. La Bourdenai; we made our escape together; we then entered into the military service together as ensigns; we served together at the siege of Pondicherry; we went into the field together; but our fates were very different; he was a second time taken prisoner; this misfortune put a stop to all his prospects, whilst I went on in a career of success. He continued in the civil and military service till he was of the rank of council, and after fifteen years service in India, was obliged by ill health to return to his native country, not worth 3,000*l.* in the world. I thought him intitled to some share of my affluence, but what I did for him was not sufficient to make his circumstances perfectly independent: for these reasons I took him with me on my last expedition. Another gentleman was my secretary, now a member of this House. He was recommended to me by one of the greatest men in the kingdom, now no more, Mr. Grenville. Many and great are the obligations I have been under to him, but the greatest of all the obligations was, his having recommended to me this gentleman: without his abilities and indefatigable industry, I could never have gone through my great and arduous undertaking, and in serving me he served the Company. The third gentleman was Mr. Ingham, a surgeon, who quitted a profession of some hundreds a year, to accompany me to Bengal.

I stood in a particular point of view; my situation was nice and critical; the eyes of the whole settlement were upon me. It was difficult for me to take any steps with regard to those gentlemen without being condemned. They had executed no covenants; I might have suffered them to receive presents to any amount: the world would then have said, that I carried them out with me in order to evade my own covenants, and to receive presents for me, as well as for themselves.

I might have granted them the privilege of trade; the advantage of which, under my favour and credit, might have been to any amount. The objection to this also was obvious: it would have been said that my own interest was at the bottom; that they traded under my influence; and that the extent of their concerns interfered with persons who had a better right. It was therefore determined that they should not benefit themselves a farthing, but by what they should receive from my hands.

My share, as governor, in the salt society, and also the manner in which it was disposed of, were publicly known both here and abroad before my return to England; and yet this matter has of late been considered as something clandestine. But I think I can prove to the satisfaction of this House that it was known to every body.

In the beginning of the year 1767, a general court was called for the purpose of rewarding my services. A continuation of ten years of the jaghire was proposed. In opposition to this, some people urged, that I was benefiting myself largely abroad. A friend of mine, an hon. member of this House, hereupon read to the court an extract of a letter he had received from me upon that subject. Before the question was balloted for, he printed this letter in hand-bills, and also published it repeatedly in all the news-papers. I have one of them, which was printed at that time, now in my hands, and with permission will read it.

"That his lordship has been adding to his fortune abroad is most untrue: his friends defy the bitterest of his enemies to support the charge. A solemn asseveration in that respect from lord Clive himself was read in court, by the friend to whom lord Clive had addressed his letter; and it is now submitted to print, in order to discredit assertions which are false; or else to remain in public testimony against his lordship."

Extract of a LETTER from Lord CLIVE,
dated Calcutta, 30th September, 1765.

"That you may assert with confidence the justice of my cause, I do declare, by the God who made me, it is my absolute determination to refuse every present of consequence, and that I will not return to England with one rupee more than what arises from my jaghire. My profits arising from salt shall be divided among

those friends who have endangered their lives and constitutions in attending me. The congratulatory nuzirs, &c. shall be set opposite to my extraordinary expences; and if aught remains, it shall go to Poplar or some other hospital."

In Mr. Bolt's book is a copy of a bond, by which it appears that I sold my concern in salt, for 32,000*l*. I do acknowledge there is such a bond, but the sum actually received by me, on that account, amounted only to about 10,800*l*. The fact was this: I could not think of suffering the three before-mentioned gentlemen, who had accompanied me to India, to return to England without realizing something on their account; I said so to my friends in Bengal. The salt concern was of a very extensive, tedious nature, and the accounts might not be made up in some years. Could I, in honour, leave those gentlemen in a situation, which made it doubtful when they should receive any thing, and to what amount? I told them I would not: I told them I would get rid of this salt concern at once, that they might be secure of the money amongst them. I therefore disposed of my whole concern in salt, even my share for the second year, which was just commenced, for the sum mentioned in the bond. But when the mode of a commission of one and one eighth per cent. on the revenues, was settled for the governor, in lieu of every other emolument; I then relinquished my share in salt for that year (the second year) in which I was to receive the commission, and paid back about 20,000*l*. of the 32,000*l*.

It now remains, Sir, for me to shew, that my own interest was not the motive of my going to India.

I have here an account of every sixpence I received or disbursed, from the day of my leaving England to the day of my return. It is taken from my books, which were kept all the time I was in India by Mr. Verelst, who will readily attest their accuracy. I omit the first part of this account, because it was transmitted to the court of directors, and stands upon record in the India House. The other part I will read. The House will observe, that in this account there are the names of others whom I rewarded, besides the gentlemen I have mentioned. One was an old servant who went out with me; and the others were young gentlemen in my secretary's office.

AMOUNT RECEIVED subsequent to the making up the Account before mentioned,
transmitted to the Court of Directors, viz.

	£.	s.	d.
Company's Allowances for January	482	2	10
Governor's Duties	359	16	9
	841	19	7

Amount received for Profits on Salt, viz.

Sold to the following Gentlemen,

	£.	s.	d.
Mr. Verelst $\frac{1}{4}$	7,714	5	8
Mr. Sykes $\frac{1}{4}$	7,714	5	8
Mr. Campbell $\frac{1}{4}$	7,714	5	8
Mr. Russell $\frac{1}{8}$	3,857	2	10
Mr. Kelsall $\frac{1}{8}$	3,857	2	10

Deduct the Amount refunded, in the Proportions above specified, upon relinquishing all Concern in the Salt Trade for the second Year

19,012 10 0

Interest paid thereon

974 7 9

30,857 2 8

19,986 17 9

10,870 4 11

Amount received for Commission on the Duannee Revenues.....

30,896 10 5

42,378 14 11

Balance

5,816 16 9

48,395 11 8

AMOUNT PAID subsequent to the making up of the Account before mentioned,
transmitted to the Court of Directors, viz.

	£.	s.	d.	£.	s.	d.
Account Salaries	208	19	7			
Charges General	1,395	9	2			
Table Expences	1,087	6	4			
Wearing Apparel	103	19	5			
				2,745	14	6

Amount of Expences paid in England

1,846 5 7

Henry Strachey, Esq.

Transferred to him the Amount of Mr. Sykes's Bond

£. s. d.

7,714 5 8

Interest thereon.....

471 8 6

8,185 14 2

A Proportion of Mr. Kelsall's Bond with Interest

1,274 13 5

The Amount of a Bill on Attornies in England

2,892 17 1

A Proportion of the Commission on the Revenues

3,589 12 3

15,942 16 11

Edmund Maskelyne, Esq.

Transferred to him the Account of Mr. Verelst's Bond

7,714 5 8

Interest thereon

471 8 6

8,185 14 2

The Amount of Mr. Russell's Bond

3,857 2 10

Interest thereon

235 14 3

4,092 17 1

A Proportion of Mr. Kelsall's Bond with Interest

771 8 6

13,049 19 9

Samuel Ingham, Esq.

Transferred to him Amount of Mr. Campbell's Bond

7,714 5 6

Interest thereon

471 8 6

8,185 14 2

A Proportion of Commission on the Revenues.....

976 5 8

9,161 19 10

Mr. Philpot.

Transferred to him remainder of Mr. Kelsall's Bond

1,928 9 6

Interest thereon

118 5 7

2,046 15 1

Presented to him an additional Sum

150 0 0

2,196 15 1

Mess. Wynne, Archdekin, Coxe, and Ducarel.

Transferred to them a Proportion of Commission on the Revenues.....

3,402 0 0

48,395 11 0

The balance against me, upon the whole, is 5,816*l*. Now, Sir, I have no objection to having this account lodged among the records of this House, that it may stand in judgment for or against me, if future commissioners, either on the part of the crown or the East India Company, should ever think a retrospection into my conduct necessary.

There is only one circumstance more with which I shall trouble the House; and I do assure them, I should be ashamed to touch upon it, as it may carry with it an appearance of vanity, were not my honour and reputation so much at stake. It was in my power to have taken from my enemies every shadow of pretence for arraigning my conduct, on account of these profits, as they have been called, of my government. I could have rewarded those gentlemen much more liberally, without the possibility of an accusation. But I should not have acted so much to my own satisfaction, nor I believe so much to that of the House; if I had neglected the opportunity that offered, of doing something essentially beneficial to the East India Company's service.

The old nabob Meer Jaffier, if ever mussulman had a friendship for a Christian, had a friendship for me. When the news of my appointment to the government reached Bengal, he immediately quitted Muxadavad; came down to Calcutta; impatiently waited my arrival for six weeks; fell ill; returned to his capital, and died. Two or three days before his death, in the presence of his wife, and in the presence of his minister, he said to his son and successor, "Whatever you think proper to give to lord Clive on your own account, the means are in your power. But, as a testimony of my affection for him, I desire you will pay to him as a legacy from me five lacks of rupees." I must observe that the nabob's death happened whilst I was on my voyage, and some months before my arrival in Bengal. The principal and interest amounted to near 70,000*l*. A very respectable gentleman and great lawyer, who is now the Speaker of this honourable House, gave his opinion in favour of my right to this legacy, in the strongest terms: another great lawyer, a member of this House, has often declared to me in private, his opinion of my right; and the court of directors have themselves confirmed that right. Authentic attestations of this legacy are upon record in the India House. The whole

of the money, added to about 40,000*l*. more, which I prevailed on the nabob to bestow, is established for a military fund, in support of officers and soldiers who may be invalided in any part of India, and also in support of their widows. Nothing was wanting but such an establishment as this, to make the East India Company's military service the best service in the world. Before that period, an indigent, invalided officer and soldier might live in India, but if he returned to his native country, he returned to beggary. By this fund the officers are entitled to half-pay: the soldiers are upon the same footing as those in Chelsea Hospital; and the widows of both officers and soldiers have pensions.

Having encroached so long upon the patience of the House, I doubt whether I may now expect their farther indulgence, or whether I must defer what I have to say upon this important business till a future occasion.

(House. Go on, go on.)

But before I proceed, I must beg leave to deviate a little into a digression, on behalf of the Company's servants in general. It is dictated by humanity, by justice, and by truth.

Indostan was always an absolute despotic government. The inhabitants, especially of Bengal, in inferior stations, are servile, mean, submissive, and humble. In superior stations, they are luxurious, effeminate, tyrannical, treacherous, venal, cruel. The country of Bengal is called, by way of distinction, the paradise of the earth. It not only abounds with the necessities of life to such a degree, as to furnish a great part of India with its superfluity, but it abounds in very curious and valuable manufactures, sufficient not only for its own use, but for the use of the whole globe. The silver of the west and the gold of the east have for many years been pouring into that country, and goods only have been sent out in return. This has added to the luxury and extravagance of Bengal.

From time immemorial it has been the custom of that country, for an inferior never to come into the presence of a superior without a present. It begins at the nabob, and ends at the lowest man that has an inferior. The nabob has told me, that the small presents he received amounted to 300,000*l*. a year; and I can believe him; because I know that I might have received as much during my last government. The Company's servants have

[2 A]

ever been accustomed to receive presents. Even before we took part in the country troubles, when our possessions were very confined and limited, the governor and others used to receive presents; and I will take upon me to assert, that there has not been an officer commanding his Majesty's fleet; nor an officer commanding his Majesty's army; not a governor, not a member of council, not any other person, civil or military, in such a station as to have connection with the country government, who has not received presents. With regard to Bengal, there they flow in abundance indeed. Let the House figure to itself a country consisting of 15 millions of inhabitants, a revenue of four millions sterling, and a trade in proportion. By progressive steps the Company have become sovereigns of that empire. Can it be supposed that their servants will refrain from advantages so obviously resulting from their situation? The Company's servants, however, have not been the authors of those acts of violence and oppression, of which it is the fashion to accuse them. Such crimes are committed by the natives of the country, acting as their agents, and for the most part without their knowledge. Those agents, and the banyans, never desist, till, according to the ministerial phrase, they have dragged their masters into the kennel; and then the acts of violence begin. The passion for gain is as strong as the passion of love. I will suppose, that two intimate friends have lived long together; that one of them has married a beautiful woman; that the friend still continues to live in the house, and that this beautiful woman, forgetting her duty to her husband, attempts to seduce the friend; who, though in the vigour of his youth, may, from a high principle of honour, at first, resist the temptation, and even rebuke the lady. But if he still continues to live under the same roof, and she still continues to throw out her allurements, he must be seduced at last or fly. Now the banyan is the fair lady to the Company's servant. He lays his bags of silver before him to-day; gold to-morrow; jewels the next day; and if these fail, he then tempts him in the way of his profession, which is trade. He assures him that goods may be had cheap, and sold to great advantage up the country. In this manner is the attack carried on; and the Company's servant has no resource, for he cannot fly. In short, flesh and blood cannot bear it. Let us

for a moment consider the nature of the education of a young man who goes to India. The advantages arising from the Company's service are now very generally known; and the great object of every man is to get his son appointed a writer to Bengal; which is usually at the age of 16. His parents and relations represent to him how certain he is of making a fortune; that my lord such a one, and my lord such a one, acquired so much money in such a time; and Mr. such a one, and Mr. such a one, so much in such a time. Thus are their principles corrupted at their very setting out, and as they generally go a good many together, they inflame one another's expectations to such a degree, in the course of the voyage, that they fix upon a period for their return before their arrival.

Let us now take a view of one of these writers arrived in Bengal, and not worth a groat. As soon as he lands, a banyan, worth perhaps 100,000*l.* desires he may have the honour of serving this young gentleman, at 4*s.* 6*d.* per month. The Company has provided chambers for him, but they are not good enough;—the banyan finds better. The young man takes a walk about the town, he observes that other writers, arrived only a year before him, live in splendid apartments or have houses of their own, ride upon fine prancing Arabian horses, and in palanqueens and chaises; that they keep seraglios, make entertainments, and treat with champagne and claret. When he returns, he tells the banyan what he has observed. The banyan assures him he may soon arrive at the same good fortune; he furnishes him with money; he is then at his mercy. The advantages of the banyan advance with the rank of his master, who in acquiring one fortune generally spends three. But this is not the worst of it: he is in a state of dependence under the banyan, who commits such acts of violence and oppression, as his interest prompts him to, under the pretended sanction and authority of the Company's servant. Hence, Sir, arises the clamour against the English gentlemen in India. But look at them in a retired situation, when returned to England, when they are no longer nabobs and sovereigns of the east: see if there be any thing tyrannical in their disposition towards their inferiors: see if they are not good and humane masters: Are they not charitable? Are they not benevolent? Are they not generous?

Are they not hospitable? If they are, thus far, not contemptible members of society, and if in all their dealings between man and man, their conduct is strictly honourable: if, in short, there has not yet been one character found amongst them sufficiently flagitious for Mr. Foote to exhibit on the theatre in the Haymarket, may we not conclude, that if they have erred, it has been because they were men, placed in situations subject to little or no controul?

But if the servants of the Company are to be loaded with the demerit of every misfortune in India, let them also have the merit they are entitled to. The court of directors surely will not claim to themselves the merit of those advantages which the nation and Company are at present in possession of. The officers of the navy and army have had great share in the execution; but the Company's servants were the cabinet council, who planned every thing; and to them also may be ascribed some part of the merit of our great acquisitions.

I will now pass to other matter: matter as important as ever came before the House. India yields at present a clear produce to the public and to individuals, of between two and three millions sterling, per annum. If this object should be lost, what can administration substitute in the room of it? I tremble when I think of the risk we lately ran from the ambitious designs of the French. They may have suspended for a time their views upon India, but I am sure they have not given them up. It is strongly reported they have at this moment 10,000 men at the islands, and a great number of transports: these men are not to return to France, and yet the islands cannot maintain them: but at Madagascar they may possess themselves of a country capable of supporting any number. This they certainly will do, and their forces instead of decreasing will increase by additional battalions, poured out from France, until they are ready to carry into execution their favourite design. The noble lord at the head of the treasury will do me the justice to say that I laid before him a paper, drawn up fifteen months ago, in which I stated almost every thing that has since happened, relating to the views of France upon the East Indies. It was indeed impossible for me to be deceived, knowing the preparations that had been made.

If ever France should lay hold of our possessions, she will soon add to them all

the rest of the East Indies. The other European nations there will immediately fall before her; not even the Dutch can stand; the empire of the sea will follow: thus will her acquisitions in the east, if any can, give her universal monarchy. I repeat, and I would have what I say remembered, that the French have not given up their designs upon India.

But danger abroad being for the present suspended, let us think of the danger at home.

It is certain that our affairs in Bengal are in a very deplorable condition, and that the nation cannot receive their 400,000*l.* and the proprietors their 200,000*l.* increase of dividend much longer, if something be not done.

It is necessary since these affairs are brought before parliament, that we should endeavour to understand them. There are a few material points, which I will state as clearly as I can. The revenues; the inland trade; the charges civil and military: and the public trade, by which I mean the trade of the Company.

Upon the receipt of the revenues depend the 400,000*l.* a year to government, and the 200,000*l.* a year additional dividend to the proprietors: and upon the Company's or public trade depends the coming home of the revenues.

There are no mines of gold and silver in Bengal, therefore the revenues can be brought hither only through the medium of the Company's trade.

Upon the civil and military expences depends whether we shall have any surplus revenue at all: for if they are swelled up too high you can receive no revenues. Upon the inland trade depends in some degree the receipt of the revenues. Upon the inland trade depend almost totally the happiness and prosperity of the people. Indeed the true cause of the distress in Bengal, as far as it relates to the inland trade, is this. The Company's servants and their agents have taken into their own hands the whole of that trade, which they have carried on in a capacity before unknown; for they have traded not only as merchants, but as sovereigns, and by grasping at the whole of the inland trade, have taken the bread out of the mouths of thousands and thousands of merchants, who used formerly to carry on that trade, and who are now reduced to beggary.

With regard to the public trade, it is material to observe what it has been, and what it now is. Here is an account of the

prime costs of the Company's investments from Bengal, for seven years preceding the acquisition of the Duannee, and for seven years subsequent, together with the number of ships employed.

COMPARATIVE VIEW of the NUMBER of SHIPS from Bengal, with the amount of their CARGOES, for seven years preceding and seven years succeeding the acquisition of the Duannee, in 1765.

The seven preceding years.

	Ships	£.
1758.....	3.....	138,000
1759.....	4.....	144,000
1760.....	4.....	292,931
1761.....	5.....	356,850
1762.....	6.....	395,550
1763.....	3.....	320,077
1764.....	3.....	276,772
—	—	—
	28	1,924,180
Increase	18	2,587,286
—	—	—
	46	4,511,466
—	—	—

The seven succeeding years.

	Ships	£.
1765.....	5.....	437,511
1766.....	6.....	560,461
1767.....	6.....	658,341
1768.....	8.....	742,288
1769.....	7.....	633,665
1770.....	7.....	705,700
1771.....	7.....	768,500
—	—	—
	46	4,511,466
—	—	—

By this paper, it appears that the public trade has increased more than double, since the acquisition of the Duannee.

I now come to a very material point indeed: a state of the revenues, and also of the civil and military, and all other expences from the year 1765 to 1771. The first year's account is imperfect, because the revenues are stated from the month of April, and the Duannee was not obtained till August.

Amount of the REVENUES and CHARGES,

Shewing the NET RECEIPTS and the NET INCOME for six Years, from May 1765 to April 1771.

One Year	Gross Collections.	Charges of collecting Tribute Sup.	Net Revenues.	Civil Charges.	Military Charges.	Buildings and Fortifications.	Total Amount of Charges, Civil, Military, and Buildings, &c.	Total Charges, including Tribute, &c.	Net Income.
From May 1765 to April 1766 ...	£. 2,264,763	£. 611,890	£. 1,652,873	£. 211,398	£. 612,009	£. 87,223	£. 910,630	£. 1,522,520	£. 742,243
May 1766 to April 1767 ...	3,861,141	1,273,755	2,587,386	307,484	861,174	105,544	1,274,202	2,547,957	1,313,184
May 1767 to April 1768 ...	3,613,171	1,255,673	2,357,498	303,231	868,177	219,285	1,390,693	2,646,366	966,805
May 1768 to April 1769 ...	3,786,795	1,296,739	2,490,056	422,250	22,393	270,873	1,715,516	1,012,255	774,540
May 1769 to April 1770 ...	3,430,210	1,209,366	2,220,844	391,906	1,044,631	173,353	1,629,890	2,839,253	590,954
May 1770 to April 1771 ...	3,148,960	1,209,366	1,939,594	—	—	—	1,766,250	2,975,616	173,344
	20,105,040	6,856,789	13,248,251	1,636,269	4,408,384	876,278	8,687,181	15,543,970	4,561,070

This account must be exact, because I had the whole of it from the India-house particulars of the last year, which the court of directors are not yet in possession of. But I cannot doubt their authenticity,

as I received them from a gentleman in council at Bengal.

The House will observe, that the gross collections have not decreased considerably till the year 1770, which was the year of the famine; but that the civil and military expences have been gradually increasing ever since I left Bengal, which was in the beginning of the year 1767. And here lies the danger. The evil is not so much in the revenues falling short, as in the expences increasing. The best means of raising the revenues is to reduce the civil and military charges. Why should we strive at an actual increase of the revenues? They avail nothing unless we can invest them; and to raise them beyond a certain point is to distress the country, and to reduce to indigence numbers who from time immemorial have derived their subsistence from them.

With regard to the increase of the expences, I take the case to stand thus. Before the Company became possessed of the Duannee, their agents had other ways of making fortunes. Presents were open to them. They are now at an end. It was expedient for them to find some other channel: the channel of the civil and military charges. Every man now, who is permitted to make a bill, makes a fortune.

It is not the simple pay of officers and men upon the military and civil establishment which occasions our enormous expence, but the contingent bills of contractors, commissaries, engineers, &c. out of which, I am sure, great savings might be made. These intolerable expences have alarmed the directors, and persuaded them to come to parliament for assistance. And, if I mistake not, they will soon go to administration, and tell them they cannot pay the 400,000*l.* and that they must lower the dividend to the proprietors.

I attribute the present situation of our affairs to four causes: a relaxation of government in my successors; great neglect on the part of administration; notorious misconduct on the part of the directors; and the violent and outrageous proceedings of general courts, in which I include contested electors.

Mr. Verelst, who succeeded me in the government, I do believe to be a man of as much real worth and honour as ever existed: and so far from being wanting in humanity, as Mr. Bolts asserts, I know that he had too much humanity. Humanity, if I may be allowed the expression, has been his ruin. If he had had less, it

would have been better for the nation, better for the Company, better for the natives, and better for himself. No man came to the government with a fairer character, and notwithstanding what I have said, I am conscious no man ever left it with a fairer. He acted upon principles of disinterestedness from beginning to end: and let the directors, if they can, tell me where I could have laid my finger upon a fitter man. But the truth is, he governed with too lenient a hand. The too great tenderness of his disposition, I saw and dreaded. Nothing was wanting on my part to prompt him to pursue vigorous measures. Nor did I confine myself to verbal advice only. I gave it in writing before I resigned the government. The House will permit me to read to them my sentiments upon that occasion. They are contained in my farewell letter to the select committee, wherein I forewarned them of almost every misfortune that has since happened. The whole is too long to trouble the House with. I shall therefore read only that part of it which relates to the present subject.

EXTRACT from my Farewell Letter to the Select Committee, dated 16th January, 1767.

“The reformation proposed by the Committee of Inspection will I hope be duly attended to. It has been too much the custom in this government to make orders and regulations, and thence to suppose the business done. To what end and purpose are they made, if they be not promulgated and enforced? No regulation can be carried into execution, no order obeyed, if you do not make rigorous examples of the disobedient. Upon this point I rest the welfare of the Company in Bengal. The servants are now brought to a proper sense of their duty; if you slacken the reins of government, affairs will soon revert to their former channel; anarchy and corruption will again prevail; and, elate with a new victory, be too head-strong for any future efforts of government. Recall to your memories the many attempts that have been made in the civil and military departments, to overcome our authority, and to set up a kind of independency against the court of directors. Reflect also on the resolute measures we have pursued, and their wholesome effects. Disobedience to legal power is the first step of sedition; and palliative remedies effect no cure. Every

tender compliance, every condescension on your parts will only encourage more flagrant attacks, which will daily encrease in strength, and be at last in vain resisted. Much of our time has been employed in correcting abuses. The important work has been prosecuted with zeal, diligence, and disinterestedness, and we have had the happiness to see our labours crowned with success. I leave the country in peace; I leave the civil and military departments under discipline and subordination: it is incumbent upon you to keep them so. You have power, you have abilities, you have integrity; let it not be said that you are deficient in resolution. I repeat, that you must not fail to exact the most implicit obedience to your orders. Dismiss or suspend from the service any man who shall dare to dispute your authority. If you deviate from the principles upon which we have hitherto acted, and upon which you are conscious you ought to proceed; or if you do not make a proper use of that power, with which you are invested, I shall hold myself acquitted, as I do now protest against the consequences."

It is certain, that if my successor had followed my example and advice, the evil day would have been kept off some time longer. But had he kept the highest rein, he could not have done much service to the Company: for neither he nor any man could have long guarded against the mischiefs occasioned by the directors themselves, when they took away the powers of the select committee.

The Company had acquired an empire more extensive than any kingdom in Europe, France and Russia excepted. They had acquired a revenue of four millions sterling, and a trade in proportion. It was natural to suppose that such an object would have merited the most serious attention of administration; that in concert with the court of directors they would have considered the nature of the Company's charter, and have adopted a plan adequate to such possessions. Did they take it into consideration? No, they did not. They treated it rather as a South Sea bubble, than as any thing solid and substantial: they thought of nothing but the present time, regardless of the future: they said, Let us get what we can to-day, let to-morrow take care for itself: they thought of nothing but the immediate division of the loaves and fishes: nay, so anxious were they to lay their hands upon

some immediate advantage, that they actually went so far as to influence a parcel of temporary proprietors to bully the directors into their terms. It was their duty, Sir, to have called upon the directors for a plan; and if a plan, in consequence, had not been laid before them, it would then have become their duty, with the aid and assistance of parliament, to have formed one themselves. If administration had done their duty, we should not now have heard a speech from the throne, intimating the necessity of parliamentary interposition, to save our possessions in India from impending ruin.

The next point is, the misconduct on the part of the court of directors.

After the court of directors had, in the highest terms, approved of the conduct of that committee, who restored tranquillity to Bengal; who had restored a government of anarchy and confusion to good order; who had made a peace with Suja Dowla, by which they obtained upwards of 600,000*l.* for the Company; who had quelled both a civil and a military mutiny; who had re-established discipline and subordination in the army; who had obtained the duannee of Bengal, Bahar, and Orissa, which produced to the Company a net income of 1,300,000*l.*; who had paid off the greatest part of a bond debt in Bengal, amounting to near 900,000*l.*; who had left the treasury in such a flowing state, that they drew few or no bills upon the Company at home; who laid the foundation of investments so large as were never before known or heard of; and who had by these means enabled the Company to assist government with 400,000*l.* a year, and to make an increase of dividend to the stockholders of 200,000*l.*; one would imagine that the court of directors would have supported a system of government which had been so very successful. But they acted upon very different principles; they dropped the prosecutions against those gentlemen in Bengal, whose conduct the committee had censured, and fully represented. Thus they gave a stab to their own vitals. From that instant they destroyed their own power abroad, and erased from the minds of their servants in India, every wholesome regulation which the committee had established. The servants abroad were in anxious suspense to learn whether they were punishable or not for misconduct. The lenity or weakness of the court of directors removed their doubts. From that instant all covenants

were forgotten, or only looked upon as so many sheets of blank paper; and from that instant began that relaxation of government so much now complained of, and so much still to be dreaded.

Their next step was to destroy the powers of that committee whose conduct they had with reason so highly approved of. They divided the powers; they gave half to the council, and left the other half with the committee. The consequence was, the council and committee became distracted by altercations and disputes for power, and have ever since been at variance, to the great detriment of the service. The court of directors, as if this was not enough, restored to the service almost every civil and military transgressor, who had been dismissed: nay, they rewarded some of them by allowing them a continuation of their rank all the time they were in England. And now, as a condemnation of their own conduct, and a tacit confession of their own weakness, they come to parliament with a bill of regulations, in which is inserted a clause to put such practices, as much as possible, out of their power for the future.

With regard to general courts; I believe I need not dwell long on the consequences of them. Their violent proceedings have been subversive of the authority of the court of directors. The agents abroad have known this: they have therefore never scrupled to set the orders of the court of directors at defiance, when it was their interest to disobey them, and they have escaped punishment, by means of the over-awing interests of individuals at general courts. Thus have general courts co-operated with the court of directors in the mischiefs that have arisen in Bengal; whilst annual contested elections have, in a manner, deprived the directors of the power of establishing any authority over their servants. The first half of the year is employed in freeing themselves from the obligations contracted by their last elections; and the second half is wasted in incurring new obligations, and securing their election for the next year, by daily sacrifices of some interest of the Company. The direction, notwithstanding all these manœuvres, has been so fluctuating and unsettled, that new and contradictory orders have been frequently sent out; and the servants (who to say the truth have generally understood the interest of the Company much better than the directors) have in many instances fol-

lowed their own opinion, in opposition to theirs.

It is not my intention, at present, to trouble the House with the remedies for these evils. I rather chuse to defer them till the Bill come into the House. I have now opened my budget: it is not a ministerial budget: it is an East India budget; which contains many precious stones, diamonds, rubies, &c. of the first water and magnitude: and there wants only a skilful jeweller, and able artist, to polish them and ascertain their real value.

Governor *Johnstone* spoke as follows:

Sir; I am clearly of opinion against giving leave for bringing in this Bill, before we have gone through a previous examination of facts to enable us to form a proper judgment. It is not upon such knowledge as may be acquired from loose, irregular, unconnected, bold assertions, or from partial, studied calculations on paper, thrown together to deceive and mislead, and merely read by a particular member in his place, where human genius cannot follow the numbers, so as to discover or detect any fraud, that this House ought to proceed in a matter of such moment; but from evidence solemnly brought to your bar, and authentic papers laid on your table, whereby truth and falshood may be compared. The many contradictory accounts we have heard from different sides of the House should induce us to this rational step. Except the gentlemen who moved and seconded this question, every one who has spoken hitherto has called for an enquiry: even those whose conduct may be supposed to be most affected by such a proceeding, have been loudest in the demand: and yet from a languor I perceive in certain parts of the House whose spirit can alone rouse this assembly, and from certain whispers that have gone abroad, I believe this great national question under certain compromises and coalitions will be slurred over like many other subjects, regardless of the honour of the nation and the cries of human nature.

An hon. gentleman (Mr. Rumbold) on the other side has told you there are no evils existing in the government of Bengal; that cities are encreasing to double their size, inhabitants multiplying, and new improvements in land every where throughout the provinces; and this he has stated in contradiction to a paragraph from a respectable author, colonel Dow,

who tells you that five millions of people have been destroyed or fled from the country. The honourable member has said, "he formerly knew colonel Dow, and that he believed him to be a man of honour; but pique and resentment for the disappointments which he suffered, in consequence of his part in the association of 1766, has induced him to exaggerate circumstances, and place every thing in an unfavourable light."

I have the pleasure of knowing colonel Dow in a very intimate degree at this moment: I too believe him to be a man of strict honour, and all the world will allow he is a man of extraordinary disquisitive powers. As this very passage exceeded all the accounts of distress which I had heard concerning the country, I asked the colonel respecting it; he allowed there was some ambiguity in the expression as to the time when his calculation began and ended, but that he meant to include all the miseries of the famine to the last dispatches, and in this sense he was capable of showing sufficient foundation for the facts he had asserted; but let colonel Dow's or the hon. gentleman's account be true, it behoves the legislature to enquire; nor can we ever be vindicated in shutting our doors against regular information after such assertions from an officer of high rank and character, in a work to which he has affixed his name, and dedicated to his sovereign.

A noble lord (Clive) on this side the House had admitted such miseries and mismanagement in the affairs of Bengal since he left that country, that every man of fore-thought must be alarmed with the approach of sudden bankruptcy. His lordship has indeed imputed them to other causes, but still the grievances exist; and whether in the directors at home or the contractors abroad, it is equally our duty to enquire.

The noble lord has made a great impression on the House, by entering into a long refutation of charges that had been sent him by the court of directors, the mutilated titles of which charges he has barely read. As I have had an opportunity of seeing those charges as well as the noble lord, and as the answers he has given to them, after all possible preparation, rather confirm than lessen my idea of his guilt, I beg leave to be indulged in a few words by way of a reply to each.

The noble lord sets out with two articles which have been transmitted to him from

the court of directors, as the first and second heads of charges exhibited against him. It is needless for his lordship to furnish me with instances of the clumsy manner in which business is transacted at the East India House; and yet there is something so very extraordinary in this, that I am apt to impute it to design rather than ignorance. His lordship plumes himself extremely in refuting those charges. As to the first, says he, "I never dealt in cotton in all my life; I know no more of cotton than the pope of Rome, nor indeed, properly speaking, did I ever trade. My fortune was obtained at the head of an army. Respecting the second, I did send to distant provinces to purchase diamonds, for the purpose of remitting my jaghire to England, there being no other lawful way of remitting my money at that time, as the Company's cash was then full. But after regularly paying the duties for the diamonds here in England, I lost 3 per cent. by the adventure." Now really it is sufficient to astonish the House, and occasion their giving very little attention to any other charges, when the first and second are so easily answered. But I hope the wonder will be removed, and their attention recalled when I acquaint them, there are no such articles stated as charges against his lordship. The charge of monopolizing cotton, and forcing it on the zeminders, is expressly confined to the council, excepting some particular members. The monopoly of diamonds is not stated as a charge, but as a fact to illustrate another point.

I come now to the real articles of charge, and I submit to the recollection of the House how far his lordship had answered them to the understanding of any man of sense. The first article of charge, as his lordship has stated them, is monopolizing of salt, betle-nut, and tobacco, contrary to the repeated orders of the court of directors, and in contradiction to his solemn engagements in that behalf. Has not his lordship confessed a monopoly of those articles in the most rigid degree? Has he not allowed he held 5-56th shares? Has he not pretended to amuse you with calculations of the most cruel and fallacious kind, stating how much he extracted from each individual on the article of salt, without including the other commodities? Has he not told you those men, wearing few clothes, and having only mean habitations, and not being addicted to the use of spirituous liquors, were well able to

pay the 2s. 3d. demanded, and therefore fit instruments to be squeezed in his engines of oppression? What man who has considered the subject of taxation, can be so ignorant as not to know that every species of general extortion or oppression may be vindicated by such arguments? Can any man say, after duties and enhanced prices are long laid on any commodity, that the increased extortion falls equally on every member of the community, much less on the first establishment of such impositions? But the mere sum taken is not the evil, as might be shown by the difference of taxation in free and arbitrary countries. It is the wicked principle of such regulations, contrary to the law of nature, that destroys human industry, checks the incitements to labour, and produces famine and all other evil consequences that have followed in Bengal. But here too I must remark, that the title of this article of charge, as delivered to the court of directors respecting many other gentlemen as well as his lordship, is not for monopolizing salt, betlenut, and tobacco, which produced the late famine, but for monopolizing salt, betlenut, tobacco, and other 'commodities,' which produced the late famine. His lordship has acknowledged the effect of his regulation was that of setting thousands and thousands of merchants adrift who used to deal in those commodities. Can there be so complete a confession of the horrid consequences of his regulation before a sensible body of men? Thousands and thousands of merchants thrown loose in any community will convulse the state to the very centre. But, says his lordship, "I acknowledge the first regulations on the institution of this monopoly, which were drawn by Mr. Sumner in my absence, were defective, and I received many complaints up the country against them; but on the next year I corrected all these mistakes, and laid on 50 per cent. additional duty, directing the commodities to be sold at the different places at distinct prices; and in case it had not been for the frauds practised by the banyans, and the disobedience of orders in the agents for the committee, there could have been no complaints. Without taking notice that his lordship had no authority for laying on any duties whatsoever, who does not know such a ridiculous scheme of fixing stated prices on the necessities of life throughout the provinces, without its being possible at all times to proportion the quantity

and demand, was liable to every species of imposition that followed? and nothing less than a total ignorance of the subject could make a man complain of the consequences.

His lordship has gone into a digression to mislead the House on the manner in which this trade was formerly carried on, to vindicate himself for imposing such high duties: and this is a mistake I have met with from many sensible men in discoursing concerning East India affairs.—The revenues of the state are not collected in India, by duties and commodities, as in Europe: the amount of the highest duties that were ever collected on salt in Bengal was 72,000*l.* a year: the general medium was 40,000*l.* The rest were exactions at the different chokeys. Cogee Wazeed farmed the whole at 32,000*l.* a year: in the time of Alle Verde Cawn; and a worthy governor, who is since lost, confessed to me in a public assembly, that the disputes with Cossim Ally Cawn on these articles were fairly contentions for authority, and not of pecuniary consideration. The assumed distinction of exports and imports, in explaining the firmound, are ridiculous in themselves, and never could be applicable to salt, even according to that assumed distinction, since salt has ever been both an export and import. And therefore there is not the least argument to be drawn from those facts, which can vindicate his lordship's regulations.

We come now to the contumacious disobedience of orders. His lordship tells us of the extreme ignorance of the court of directors, in excuse for disregarding their positive commands, which had been formerly laid before the legislature.

With regard to the wisdom of the court of directors, I will not enter into a dispute with his lordship on that article at present, but leave those gentlemen to vindicate themselves. However, I must observe, whether ignorant or intelligent, they were his superiors, whom he was bound to obey by every tie of honour and duty; and where so much profit accrued by a contrary conduct, men will be apt to impute his disobedience to other motives. I must further remark, the orders of 1766, which were so peremptory on this head, and seem to give so much offence to his lordship, as leaving him no defence, except in the ignorance of his masters, were all wrote by one whom he always treated as his most intimate friend, and signed by others whom I cannot call his friends, indeed, but his most servile tools in office. If this

plea of the ignorance of the directors is to be admitted as an excuse for such wilful disobedience of their orders, what establishment can be secure?

How is it possible to deny the same justification to every other person, or to punish any other man for this offence, upon which the welfare of so many millions depend? But this was not a common disobedience of orders on a single point, liable to be mooted, but a pertinacious, interested resistance, from year to year, under solemn deeds, and large penalties. His lordship has stated in his farewell letter to Mr. Verelst, (which, by the bye, I think the most arbitrary composition that ever was read in a free assembly) that disobedience to orders he considers as the greatest legal crime. Will then his lordship apply the law he left to others, for a moment, to himself? Or is he to be exempted from those rules by which the rest of mankind are to be judged? His lordship has alleged that many of the extracts of the letters referred to in the charges against him, prohibiting the trade in salt, betle-nut, and tobacco, were wrote with a reference to other men: but he forgets to mention, that the letter of the 19th of February, 1765, which was wrote nine months after he left England, confirms all those orders of prohibition, and has these remarkable words: "Whatever government may be established, or whatever unforeseen occurrences may arise, it is our resolution to prohibit, and we do absolutely forbid, this trade of salt, betle-nut, and tobacco. And moreover we shall deem every European concerned therein, directly or indirectly, guilty of a breach of his covenants;"—and it is further to be remembered, that this very letter was received, and was the occasion of the extraordinary deed of disobedience, which has made so much noise in the world. Whatever excuses may be made, the wilful interested disobedience of orders is clear.

The next point to be considered, is the profits derived from this conduct: his lordship does not deny the large sums he acquired, but he tells you of a Mr. Maskeline, who had gone through all stations of life with him—"through regions vast and deserts wild,"—to whom he gave 13,000l.; to Mr. Streachy (whose merit I am glad to acknowledge, as praised by all parties) 15,000l.; to Mr. Ingham, 12,000l.; to Mr. Philpot, his footman, 2,000l. besides 2,000l. which he formerly received as stated in an

account of a similar nature to this, on the Company's books. Now, really, I can hardly conceive a plainer confession of the fact charged. His lordship acknowledges the receipt of the money, contrary to his engagements, and in defiance of public orders; but he insists, that having subsequently distributed among his friends and servants, he has been guilty of no breach of his promise or his duty.—As this is a new species of defence, I shall be glad to hear the reception it meets with from the public. It would be a strange plea in a court of justice; besides, how is it possible to detect any man with such a powerful screen? For, suppose we should prove 50,000l. more to-morrow, it is only making another transfer, and all is clear; for it must be remembered, as I said before, there is one account balanced, of a similar nature to this, on the Company's records already, and his lordship acknowledges the subsequent 48,000l. had never been stated to the directors. Upon the whole, it is clear his lordship has acknowledged the establishing the severest monopolies on the necessaries of life, and the money he received by it. There can be few members who require a dissertation to explain the dangerous consequences of a monopoly; or who will deign to enquire in what proportion he distributed the profits among his friends and dependents.

The next charge his lordship stands accused of, is the introducing a fraudulent coinage. The answer he makes to this is short. "I did establish a new gold currency, but I know nothing of the mixture of metals. However, I am ready to declare before God, as I now do at this moment, that I reaped not a shilling profit by it." Taking this defence as his lordship has stated it, though I always understood he had a certain per centage on all coinage, what does the whole amount to? A strange confession for a man at the head of an empire, held by a trading company; not less, than if a person should declare, I know nothing of anatomy, and yet I am ready and willing at any time you please to open a principal artery. If the patient should die under such an operation, could the doctor stand wholly acquitted? Do not all men know, that the purity of coin is a principal consideration in government, and that it is of the most dangerous consequences tampering with it by any fraudulent mixtures?—Will the noble lord alledge, that the private principles of the coinage did not admit of 8 per

cent. alloy above the current standard? Will he deny, that in the progress of the frauds, it was coined with thirty per cent. alloy? Will he deny, that in two years from its establishment, the once flourishing kingdom of Bengal could not exchange 100 gold mohurs at the presidency? Will he deny, that the Company lost 300,000*l.* by the project? I shall believe from his lordship's word, that he made no profit of the great opportunity that occurred, but that he left this likewise to his friends; and yet I can hardly admit, after such recent instances of his abilities, that he is so entirely ignorant of the mixture of metals as his modesty would incline the House to believe.

The last article of accusation, which his lordship has touched upon, is speculation of revenues, or the taking of one and 1-8th per cent. from the revenues, estimated at 300,000*l.* His lordship has introduced his reasons for this appropriation, by a long-winded minute he has read to the House, stating the justice, prudence, moderation, &c. &c. with a long catalogue of all the other virtues, which ought to adorn an East India governor. To a man of sense the bare stating of such a common-place jingle of words, would denounce to his mind, that something iniquitous was to follow; the ways of truth are simple and pure; the paths of fraud are intricate and perplexed. Suppose I was to state to the House a translation of the Cadi, or judge's commission, as found in Mr. Dow's book, to prove that oppressions had never prevailed in Hindostan.

Men of reflection know what a feeble barrier a combination of syllables are against the lust of rapine. We must come to the facts. Did not lord Clive declare in his letter to the court of directors on the 28th of April, 1764, that he thought the two and one half per cent. which had been granted to Mr. Vansittart on the small extent of territory we then possessed, was too great a burden on the Company's estate? By his own consent and in consequence of confirming the jag-hire, was not his salary fixed at 6,000*l.* a year in return for all his services, civil and military: the Company agreeing to defray all his necessary expences? Does not the same letter of the 4th of June add, as a farther security for the Company, "This, together with one per cent. commission, which he is entitled to as president out of the 2½ per cent. coinage duty, to be in full consideration of all his services civil

and military, consequently his lordship is to have no commission out of the revenues from any of our territorial acquisitions whatsoever."

Under what pretence then could his lordship claim one and one-eighth, equal to 40,000*l.* from the revenues? He says, in consideration of giving up trade, which he now declares he never followed; and yet I desire to know, after acknowledging that deed stated in Mr. Bolt's book, under what name he comprehends his merchandize with Mr. Sykes and general Carnac. But supposing he had actually dealt in commerce, instead of making his bargains at the head of an army, is it to be supposed he would have launched into fresh concerns within six months of his departure?—But says his lordship (sensible of the tender part of this argument) the court of directors have confirmed it to me, and so I shall pass it over; but I deny by the most forced construction of fulsome compliments that the court of directors can or have confirmed it to him: besides, his lordship has carefully concealed from the House the six months of the 1½ per cent. on the revenues which he drew after leaving the East Indies, in prejudice of that easy, silly, humane, simple fellow he left behind.—In this I mean no reflection on the gentleman myself, I state it merely as his lordship has represented that hon. gentleman to the House, in summing up the cause of all his harmonious plans misgiving.

I have now gone through the exculpation his lordship was pleased to deliver to the House against charges of which they are ready to acquit him without ever seeing or hearing the particulars of accusation.—In my opinion his arguments stood fully refuted, though I wish that task had fallen to the share of some abler advocate.

I will sum up the whole by requesting of every member of the House to consider with his hand on his heart, what are the various subjects of complaint against the different servants of the East India Company. Is it receiving presents from princes? Has any man remitted to such an extent as his lordship? Is it for remitting such enormous sums by these channels? Is it for monopolizing the necessities of life, or disobedience of orders? Did ever any governor exceed him in those, even to enter into a penalty-bond to continue those destructive institutions, notwithstanding any orders from the court of directors to the contrary? Is it for dis-

missing law-suits by general courts? Was there ever a law-suit of such magnitude as his own dismissed by a general court? And here I cannot help mentioning my surprize at the dislike his lordship has expressed against general courts. How long has this disgust come upon him? Has he no more use for those assemblies? To what does the whole of his arguments tend? An uncontrouled direction at home, and an absolute government abroad, which are heard with such applause by a British parliament.

After stating particulars his lordship descends to general arguments, which is always the sign of a bad cause. To give the House an impression of his unbounded generosity, as if his former distributions to his servants were insufficient, he tells you, that Meer Jaffier, who had such affection for his lordship, that flesh and blood could not withstand them, left to his lordship by will, in the presence of his wife and son, and minister, 70,000*l*. The sum, his lordship says, he might have kept; and he had the opinion of the ablest lawyer in the kingdom, that the property was duly his; but instead of availing himself of such an advantage, he prevailed on the nabob to add 30,000*l*. more, with which he has since established a fund as a perpetual monument of his bounty to those officers and soldiers, at the risk of whose lives he had made so great a fortune. Is it to be supposed, says his lordship, that a man who could establish such uncommon marks of his bounty, could stoop to the crimes charged against him? But here again, to judge properly on the subject, we must attend a little to the detail of facts. Meer Jaffier died four months before his lordship arrived at Calcutta.—Several months more had elapsed before any man in the settlement ever heard a word of this will: at length Nuncumar, the late minister, was imprisoned, and soon after he was delivered of this wonderful secret, which, after a proper repetition of releasements and confinements, was thoroughly matured. I have examined into this matter in another place in a much more critical and exact way than I now do, and it never could hold a semblance of probability.—I am perfectly satisfied the artful minister imposed on his lordship; for who can withstand the various artifices of an eastern genius, as he has described their political gallantry?—But be that as it may, I now undertake to bring ten, or at least five

men to the bar, who were intimately connected with all the affairs of the Durbar for many months after Meer Jaffier's death, who will declare they never heard a word of this will till long after his lordship's arrival; and I will defy his lordship, with all his wealth, power, influence, and friends, to bring one gentleman who will declare he had ever heard a word of the matter before his lordship's arrival. However, what puts an end to this claim of generosity is, that his lordship was under covenants not to accept of any presents exceeding four thousand rupees.

I will now trouble the House with my idea of the present proposed Bill. In the shape I formerly saw it, it appeared to me worse than none. The British legislature should not move in the affairs of Asia, unless she acts with dignity and effect. The eye of the world is upon her, and disgrace must follow any insignificant, much more any false step. The present Bill leaves that double engine of tyranny, the government of the nabob, forcible and entire in all its parts. It gives the natives the power of suing British subjects in the new established courts; but it leaves the British subjects without a remedy against the frauds or oppressions of the natives, except through the interposition of the governor and council, with their creature the nabob. To be able to sue, in every other government upon earth, implies a power of being liable to sue in turn; but this power of the East India Company is to open new maxims of jurisprudence. The great object with a discerning mind is to establish one certain system of redressing injuries throughout that extensive country, and particularly to guard, that no man can be safe, from the nature of your system, in the commission of wrongs. This once established, presents will cease; for no man gives away his money without a view to undue preference.—Cut off the means of accomplishing the pernicious end, and the custom founded upon it drops of course. So in monopolies; lay your markets free and open (which you are well enabled to do, as drawing your revenues immediately from land without duties of excise or custom) and the evil is corrected. By the present Bill, the system of tyranny exercised through the nabob and the ministers, stands, in some measure, confirmed by law, if after being under the view of the legislature, no notice is taken of it so as to correct the evil. I had the honour of presenting to this

House a petition from a poor oppressed Armenian merchant who suffered long imprisonment without ever being able as yet to know the crime of which he is accused. It is true, on finding his case was laid before the House, the framers of this Bill have in some measure comprehended his sect within the remedies of their law, by inserting the word 'Christian.' But it was not because he was a Christian that I presented his petition, but because he was a human being and fellow-creature, and because his case brought the situation of all the inhabitants of Bengal fairly before the House; nor can the gentlemen who patronize this Bill shew me one reason for inserting the word Christian that does not equally apply for putting in the words Mussulman and Gentoo. Suppose after the present law, the governor is inclined to oppress one, ten, or a thousand of the inhabitants of Bengal, he whispers his wish to the nabob, the men are sent to prison. They lie there for life, or are released after proper payments. Have they any remedy for releasement when imprisoned, or damages when set free? If you will keep up this monstrous absurdity, it were better to enlarge the powers of the nabob, and make him in some degree an efficient magistrate, like Mahomed Ally at Madrass. My opinion has never altered on this subject. I am clear we hold those lands by conquest. I think the conquest was lawfully made by the Company and a small part of the King's forces in conjunction. I deny that conquest by a subject lawfully made vests the property in the state, though I maintain it conveys the sovereignty. Strictly speaking, after paying the East India Company for their expences and the risks they run, on an ample scale, the residue should belong to the state; but I see no possibility of a division, and I see great dread of the influence which the crown might acquire by an improper arrangement. My mind therefore is come to this determination, that the crown, under certain conditions, should grant the lands to the East India Company, as was done in the cases of New England and several other of our chartered colonies. The mode is easy, as the words empowering conquest, and promising all future reasonable grants, in each of the charters are literally the same. For this information, as cases in point to settle the minds of men who wish to act by precedent, I am obliged to a worthy member in my eye, who has made the constitution of

the colonies his particular study. The situation of Philadelphia, the most perfect government under the King, fully illustrates and vindicates my idea. The East India Company should appoint, and the King approve of the governor. The distribution of justice should flow from the throne. The story of the bloody sword (stated by Mr. Rumbold) does not frighten me. Who does not know that the first step towards the improvement of civil society is the taking the power of punishment from the hands of the injured?—The commander in chief of the troops should be named by the Company, and appointed by the King: all the lesser offices should be in the Company. A legislative authority should be established on the spot: without this, we are like a ship deprived of her rudder. The proper checks and controul on that body I do not now enumerate; they must be plain and simple at the beginning. If these outlines were once adjudged, the subsequent task might be soon accomplished; nor should this matter appear so difficult as to induce the minister of a great country to sit quiet in the most important national question that ever came before parliament, and permit the House to proceed in the dark, driving like a ship at the mercy of wind and wave. Some men have alledged as an objection against assuming the sovereign authority of that country, that foreign nations would object. Does any man believe that foreign nations permit us virtually to hold these territories under the magic word Devannee?—Can it be supposed they are not equally sensible of the imposition as ourselves, or will it be believed they would not be much better contented to hold their different privileges under the confirmation of a British legislature, than of a cypher of a nabob, directed by a governor and committee whom they can never trace? If I am favoured with the papers I have asked for, I shall prove those assertions from their own words, and shew we are much more likely to engender disputes under the present system. If, in making our regulations, we are jealous of supporting the privilege of foreigners, we are wrong. They are necessary for the prosperity of our India trade at home and abroad, and we ought to convince them of our resolutions in this respect by liberal determinations in their behalf, for I dread their edicts more than their army.

The noble lord has imputed all the misfortunes of the East India Company abroad

to a silly successor, and the increase of the military establishment. He is the best judge concerning those evils which flowed from his successor. As to the increased military establishment, I have often wrote, and often spoke against it, as against most of the disbursements of the East India Company, which are all calculated on a geometrical scale of extravagance in proportion to that of any other community. But who was the proposer of that enormous burden? The noble lord himself. For the directors, though dependent on his breath, rather curtailed than extended his plans. He has read to you the state of the military expences of the years his lordship served in Bengal, and compared them with those of his successors; but neither the effects of his military establishment, or his distant connections, by ill-judged treaties, could be felt till the year he left the country; nay, not fully till the arrival of the troop of colonels, lieutenant colonels, and majors, which he sent from Europe. His lordship imputes the multiplied evils that have existed in Bengal to temporary, partial causes; I impute them to radical defects in the system he had established, which I will not honour with the name of government, but that of a monstrous heap of partial, arbitrary, political inconsistencies, that were necessarily doomed to tumble in the short period they did, and to produce all the complicated miseries, mischiefs, and oppressions which have ensued.

The noble lord has told the House of the mighty things he did in his last trip to India; but he has carefully avoided condescending on any one particular, except that of his arbitrary proceedings against men who had totally eclipsed his glory, in order to make room for his low dependents. First, by destroying all government, and then by establishing a system of uncontrouled fraud and rapine. Does the noble lord claim the merit of adding the kingdoms of Bengal, Bahar, and Orissa to the British empire? and will the House give it to him who directed the pens of captive princes, or to those who by unwearied toils and multiplied dangers took the swords from their hands? For I aver it is a fact, that the surrender of Souja Doula, which reduced that part of the world to our obedience, and the arrival of lord Clive at Calcutta, were so near in point of time, that a courier could hardly have rode across the country to have given intelligence of the last circumstance

before the first great event had happened.

There is only one other circumstance in the noble lord's speech, which I can recollect from my notes as remaining unanswered. In the quantity of terrors he has hung over our heads, 10,000 French are placed at the island of Mauritius, and from thence removed to Madagascar, from whence the long exploded topic of universal monarchy is again deduced. Now I will tell the noble lord my opinion on this subject in contradiction to his, and leave the House to judge between us. If the French should acquire our possessions in India, they could never hold them without possessing a superiority at sea. These countries belong naturally to Great Britain, who has a fleet to connect them with the principal dominion. France might convulse our credit, and injure us materially by a stroke in the East Indies, and I am persuaded that such was their intention, and that she proceeded so far that she does not know whether to draw back or go on. Before our fleet went there, our dominions in the east certainly lay exposed in a manner that no wise man can vindicate. Since administration have sensibly sent a squadron into those seas, and are now so wisely sending a reinforcement, I am in no dread of the French, if they do not act before our reinforcement arrives. I think, myself, they have lost their time; at any rate Bengal is not their first object. But if they come to move to Madagascar, I am sure they are undone. Any officer who knows how European soldiers moulder away in those climates, will have little dread from 10,000 men, after the drafts by death and disease, in the course of three or four years, are duly satisfied; but in case they go to a new settlement, destitute of all accommodations from buildings and civil society, and exposed to the corrupted air of rank vegetation, I leave any one to judge who has had experience in the settling of colonies, what will be their fate in a few years. Upon the whole, I shall vote against the motion, with a view of establishing an enquiry into the affairs of the British empire in Asia.

Mr. Thomas Townshend spoke against bringing in the Bill in this manner, and government taking no notice of it, although it was mentioned in the King's speech, till a motion was made on the 30th of March, at the latter end of the session, when this Bill was now brought in with-

out any papers being laid before the House. He was answered by lord North, who told the House he had not seen the Bill, but only a sketch of it. He was sure the noble lord (Clive) had given the House a very full and particular account of the affair, and he should certainly be for bringing in the Bill. Lord North was answered by colonel Barré, who in a very severe manner condemned the administration for supporting the Bill when brought in thus, but that he would always support them, and give his assistance to them, when they acted with honour. Major Van Neck spoke next, he said that there were men enough to govern Bengal, were they properly managed by the directors. Mr. Burke opposed the Bill being brought in without any papers being laid before the House, as by it we were to have a court of justice set up there without knowing who was to be judge. Sir W. Meredith spoke for the Bill, and the necessity of passing it, as there were fifteen millions of people in that country who were oppressed for want of some regulation there. Mr. Dempster shewed the state of the East India Company, and said, some regulations ought to be made for the inhabitants there. The question being called for, the motion was carried without a division.

Debate in the Commons on Lewis's Divorce Bill.] March 11. Counsel was heard at the bar in regard to the divorce of Mr. Lewis from his wife. This Bill had gone through the Lords, and came to receive the consent of the Commons. The House being in a Committee for that purpose, and the case being opened, it appeared that one Hog, a lad under age, was the person by whom the adultery was committed; but the counsel set forth no judgment of the divorce from the courts of common law.

Mr. *Speaker* said, he was no stranger to the Bill before the Committee; he therefore wished to apprize them of the necessity there was to draw down the attention of the House, and put a stop to the careless, inattentive manner of passing these bills of divorce; that judgments in the spiritual court were often obtained in the most collusive manner; and as there appeared, in this case, to be no proceedings at common law, he thought the mode of application here should at least have some ground-work to proceed upon from the courts below.

Mr. *Mackworth* said, he was glad to

find so great a person, as the gentleman who spoke last, had taken notice of a practice which carried a disgrace to the House, in the slight grounds of evidence that had usually been offered to that House to gain their consent to bills of divorce; that it was proper to put a stop to the hasty manner in which they precipitated bills of this sort at their bar; and that there required some attention to such proceedings, as the evil of divorces daily increased, he imagined, on that account.

Mr. *Cornwall* said, that the practice of obtaining divorces in this manner, had long given him very great unassiness; that he was happy to find that the House did not so far deviate from their duty, as to throw off all attention to causes of this kind; that the easy mode of obtaining divorces at this House was loudly complained of without doors; and he hoped a day would be appointed to consider this matter fully, as the House was apprized of it.

Mr. *Whitworth* rose chiefly to return his thanks to the right hon. gentleman, for apprizing the House of the mode in which this Bill was brought; and as the objection to such proceeding came from so respectable a person, he made no doubt but that it would have great weight with the House, and that he ventured to say they would pay all the attention to it which it deserved; that he could not help calling to mind the many collusive proceedings, in the spiritual courts, with regard to divorces; that they were now become so frequent and numerous in their complaints to that court, that he imagined the judges of it could not find time even to pursue the common forms of evidence necessary upon such an occasion, or to record the sentence of divorce, which was the reason of the counsel, at the bar, being not prepared with such proper ground, or with any judgment at common law; that the practice of this House in consenting to bills of divorce, without such judgment or sentence, had been too well known, as it would appear that 13 out of 22 had passed the House, without a judgment from the courts below; and that there were 50 more divorces in agitation to come before them, each of which perhaps would come as unprepared; that men were in such a hurry to get rid of their wives, that they could not even stay for the necessary forms of evidence to go through with, in order to obtain a proper divorce by lawful process; but are told they may have it done at once by the House

of Lords and Commons; that the easy process of getting rid of their wives, had certainly given a spur to adultery; had it not been so, many occasions for such divorce would have been prevented; that now-a-days a man's wife, in this trading nation, was esteemed no more than a mercantile commodity, bartered for and transferable at your bar for a certain sum of money; but to their shame be it spoken, who set no greater value on the most inestimable blessing this world can bestow; they are monsters, not men. He said, that the practice of getting rid of divorce bills had hitherto been a disgrace to the House, and a direct encouragement to adultery, and that he hoped a stop being put to such easy process for divorces would be a stimulating means to make men, whose fault it generally was, to behave better to their wives, when they saw it was not so easy a matter to get rid of them, and prevent the women from seeking occasion for such divorce, perhaps without any vitiated intention of their own; that he would not pay so ill a compliment to the House of Lords, as to fancy that no other evidence had appeared before them, to found their assent upon, than what had come to the knowledge of this House; and must suppose that they would also be glad of a revisal of this Bill; he hoped, therefore, the House would give them that opportunity.

The Committee then put off the consideration of the Bill to the 19th.

*The King's Message to both Houses relative to Marriages of the Royal Family.**]
February 20. His Majesty sent down the following Message to both Houses:

"GEORGE R.

"His Majesty being desirous, from paternal affection to his own family, and anxious concern for the future welfare of his people, and the honour and dignity of his crown, that the right of approving all marriages in the royal

family (which ever has belonged to the kings of this realm as a matter of public concern) may be made effectual, recommends to both Houses of Parliament to take into their serious consideration, whether it may not be wise and expedient to supply the defect of the laws now in being; and, by some new provision, more effectually to guard the descendants of his late majesty king George the second (other than the issue of princesses who have married or may hereafter marry into foreign families) from marrying without the approbation of his Majesty, his heirs, or successors, first had and obtained."

Ordered, That an humble Address be presented to his Majesty, "to return his Majesty the thanks of this House for his most gracious Message; to express our sense of his Majesty's paternal affection to his family, his anxious concern for the future welfare of his people, and the honour and dignity of his crown, which must ever be inseparably connected; and to assure his Majesty, that we will immediately take the same into our most serious consideration."

Copy of the Royal Marriage Bill.]
Feb. 21. The Earl of Rochford presented to the House of Lords the Royal Marriage Bill, of which the following is a copy:

"An Act for the better regulating the future Marriages of the Royal Family.

"Most Gracious Sovereign,

"Whereas your Majesty, from your paternal affection to your own family, and from your royal concern for the future welfare of your people, and the honour and dignity of your crown, was graciously pleased to recommend to your parliament to take into their serious consideration, whether it might not be wise and expedient to supply the defect of the laws now in being, and by some new provisions, more effectually to guard the descendants of his late majesty king George the second (other than the issue of princesses who have married, or may hereafter marry, into foreign families) from marrying without the approbation of your Majesty, your heirs or successors, first had and obtained:

"We have taken this weighty matter into our serious consideration, and being sensible that marriages in the royal family are of the highest importance to the state, and that therefore the kings of this realm

* In the summer of the year 1771, the duke of Cumberland, one of the King's brothers, privately married Mrs. Horton, widow of Christopher Horton, esq. of Catton Hall, in the county of Derby, and daughter of lord Irnham: when the match was publicly announced his Majesty forbade them the court. The displeasure shown by the King on this occasion did not deter the duke of Gloucester, in the ensuing spring, from avowing as his consort the countess dowager of Waldegrave, whom he had espoused in 1766.

have ever been intrusted with the care and approbation thereof; and being thoroughly convinced of the wisdom and expediency of what your Majesty has thought fit to recommend upon this occasion.

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, and Commons, in this present parliament assembled, do humbly beseech your Majesty that it may be enacted; and be it enacted by the King's most excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present parliament assembled, and by the authority of the same, that no descendant of the body of his late majesty king George the second, being the grand-children and presumptive heirs of the reigning king, male or female (other than the issue of princesses who have married, or may hereafter marry, into foreign families) shall be capable of contracting matrimony, without previous consent of his Majesty, his heirs or successors, signified under his or their sign manual, and declared in council (which consent, the better to preserve the memory thereof, is hereby directed to be set out in the licence and register of marriage, and to be entered in the books of the privy council) and that every marriage, or matrimonial contract, of any such descendant, without such consent first had and obtained, shall be null and void, to all intents and purposes whatsoever.

"Provided always, and be it enacted by the authority aforesaid, that in case any such descendant of the body of his late majesty king George the second, being above the age of 25 years, shall persist in his, or her resolution, to contract a marriage, disapproved of, or dissented from, by the King, his heirs or successors, that then such descendant, upon giving notice to the King's privy council, which notice is hereby directed to be entered in the books thereof, may at any time, from the expiration of twelve calendar months after such notice given to the privy council aforesaid, contract such marriage; and his or her marriage, with the person before proposed and rejected, may be duly solemnized, and shall be good, without the previous consent of his Majesty, his heirs or successors, as if this act had never been made, unless both Houses of Parliament shall, before the expiration of twelve months, expressly declare their disapprobation of such intended marriage.

[VOL. XVII.]

"And be it further enacted by the authority aforesaid, that every person who shall knowingly, or wilfully, presume to solemnize, or to assist, or be present, at the celebration of any marriage with any such descendant, or at his, or her, making any matrimonial contract, without such consent as aforesaid, first had and obtained, except in the cases above-mentioned; shall be duly convicted thereof, incur and suffer the pains and penalties ordained and provided by the statute of provisions and præmunire, made in the sixteenth year of the reign of Richard the second."

The Bill was read the first time.

*Proceedings in the Lords on the Royal Marriage Bill.**] February 26. The Royal Marriage Bill was read a second time.

Then it was moved, "That the following Question be put to the Judges;"

"Is the King entrusted by law with the care and approbation of the marriages of the descendants of his late majesty king George the second, other than his present Majesty's own children, during their minorities?"

Which being objected to: after debate;

The said question was accordingly put to the Judges.

Whereupon, Mr. Baron Smythe, having conferred with the rest of the Judges present, delivered their unanimous opinion upon the said question in the negative—

"The question extending to all the descendants of his late majesty king George the second, whether within this kingdom or not."

Then the following question was put to the Judges:

"Whether the care and approbation of the marriages of the royal family, other than the issue of princesses married into foreign families, does belong to the kings of this realm?"

Whereupon, Mr. Baron Smythe, having conferred with the rest of the Judges present, acquainted the House, "That they desired time to consider of the said question."

Then it was moved, "That the said Bill be committed to a committee of the whole House on Friday next." Which being objected to: after long debate: the

* For the Proceedings, in the year 1718, on the Case concerning the King's Prerogative in respect to the Education and Marriage of the Royal Family, see Howell's State Trials, vol. 15, p. 1195.

question was put thereupon; it was resolved in the affirmative, by 93 to 35.

Feb. 28. The order of the day being read for the Judges to deliver their opinion upon the following question:

“Whether the care and approbation of the marriages of the royal family, other than the issue of princesses married into foreign families, does belong to the kings of this realm?”

Mr. Baron Smythe delivered the unanimous opinion of the Judges present upon the said question, in the following words:

“We are all of opinion, that the care and approbation of the marriages of the king’s children and grand-children, and of the presumptive heir to the crown, (other than the issue of princesses married into foreign families), do belong to the kings of this realm; but to what other branches of the royal family such care and approbation extend, we do not find precisely determined.”

Then the House went into a committee on the Bill. The title and preamble of the Bill being read were postponed. The first enacting clause being read, it was proposed, that the following question be put to the Judges:

“If the king be entrusted with the care and approbation of the marriage of the king’s children, and grand-children, and of the presumptive heir to the crown, other than the issue of princesses married into foreign families, to what other degrees of kindred, and to what ages of the contracting parties, does such right of approbation extend?”

Which being objected to; after long debate, the question was put, Whether this question shall be put to the Judges. It was resolved in the negative; Contents 32: Not-Contents 90.

Then the following question was proposed to be put to the Judges:

“Whether the kings of this realm have by law the care and approbation of the marriages of all their descendants, other than the issue of princesses married to foreign princes?”

Which being objected to; after debate, the question was put, Whether this question shall be put to the Judges. It was resolved in the negative.

Then the following question was proposed to be put to the Judges:

“If any of the descendants of his late majesty king George the Second, of the age of legal consent, shall marry without

the previous approbation of the King, is such marriage valid as the law now stands, and does the crown possess any, and what power to enforce its right of approbation of such marriage?”

Which being objected to; after debate, the question was put, Whether this question shall be put to the Judges. It was resolved in the negative. Which done,

The House was resumed; and the lord Sandys reported from the committee, that they had made a progress in the Bill.

Ordered, That the House be again put into a committee upon the said Bill on Monday next; and that the lords be summoned.

March 2. The order of the day being read, for the House to be again in a committee upon the Bill, the first enacting clause of the said Bill being read,

The Marquis of *Rockingham* said, he lamented the precipitation with which this Bill was driven on; that he would confine himself to the clause now before the House; that he thought the giving the King the care and approbation of marriage in the mode prescribed by this Bill over all the descendants of George the 2nd, was carrying it much too far; they might in a short time amount to many thousands. The grand opinion says, ‘care and approbation of marriage includes care of education, and care of education supposes custody of the person;’ so by this Bill, and the reasoning of the Judges in 1717, the King might soon have many thousands of his subjects depending upon him, not only for leave to marry, but even for the direction of their education. If this was the case, he should think, that instead of the marriage of a subject being a mis-alliance to the royal family, no subject would suffer his son to marry into the royal family, as the portion with such a marriage would be slavery. He therefore wished to narrow the line, and he could find no better rule to go by than that laid down by the Judges, and therefore he should move to leave out the words “That no descendant of the body of his late majesty, king George the second, male or female, other than the issue of princesses who have married, or who may hereafter marry, into foreign families;” and instead thereof inserting, “that none of the descendants of the body of his late majesty king George the second, being the children or grand-children of the reigning king, or being the presumptive heir to the crown, other than

the issue of princesses, who may hereafter marry into foreign families;" which being objected to, after debate the question was put, whether the words in the said clause shall stand part thereof?

The *Lord Chancellor* said, that he confessed he had had a share in drawing this Bill, and should be unworthy of the situation he was in if he could not defend every clause, every sentence, every syllable, every word, and every letter in it; that he would defend every part of it, and was free to confess that he would not consent to any amendment whatsoever; that if the Bill was to be altered, it was better to throw it out; that it could not be mended; that the foundation of the King's right to the care and approbation of marriages in the royal family, was their importance to the state. As to who are the royal family, all the descendants of George the second are so, and so was the princess of Wales, for the Civil List Act is made for the support of the dignity of the royal family. The princess and princes are paid out of the civil list, and therefore they are of the royal family. That this right is in the King, he proved by the marriage articles of the princess of Brunswick, in which the King says, he 'gives his sister in marriage,' &c. If any inconveniencies arise, parliament will take care to remedy it an hundred years hence; that all power may be abused; but it is better to risk that than not to give this power: that it is not against religion to annul marriages, for you have done so in the Marriage Act, and in the Act to prevent lunatics from marrying; that the royal family are not in the Marriage Bill, and therefore this Bill, or some Bill, ought to pass. The King cannot make a bad use of this power, because parliament would punish the minister who advised the King ill. It is impossible to draw any line; the line must go as far as the necessities of the state require it.

The Marquis of *Rockingham* answered shortly the exceptionable parts in the Lord Chancellor's speech.

Lord *Camden* answered them more at length; said he was ill of the gout, could not stay long in the House, would not fight the Bill inch by inch, but would beg leave now to state the whole of his objections to the various parts of it. He admitted the necessity of a Bill; that misalliances reflect dishonour on the King when within certain degrees; that all things are essential to kings; their very

robes and ornaments are not ceremonies; that the line 'the descendants of George the second' is too extensive; he compared it to the inverse of a great river, which received from every brook and stream something, and became at last one great river; so the royal blood is just the reverse; it is one great source at first, which the farther it goes spreads itself the more, and divides at last into an infinity of parts; that it would be dreadful if the powers of wardship should extend so far; that he knew a man that had the blood royal of England in his veins who was an alehouse keeper; that if it was right to give the King this power over the descendants of George the second, that is, to futurity, it is as reasonable to give it to the issue of former kings, and bring it to them who have the blood royal in their veins; that this is the fairest way of trying whether you do right by futurity; put yourselves in their case, and see how you like it; subject yourselves and your families in your marriages, and the education of your children, to the wardship of the crown; for surely you would not do by others differently than you would do to yourselves. If, therefore, the principle is right, you should extend it to the descendants of any king. But it is better to restrain it, not within such narrow bounds as prescribed by the noble marquis, but to the limits of the Act of Precedency, Henry 8; that no inconvenience could arise from the present King (with many compliments to him); that if the Bill was restrained to his Majesty's life, he would have consented to ten times as much as is now required, but other kings may be bad men; that the parliament can never do otherwise than agree with the King on such an occasion. To differ with him would be such an affront to a king, that if he was in parliament at such a time, he would rather agree to what he did not like than put such an affront upon a king; that it would be better not to annul the marriage when made by persons of years of discretion, but lay all other restraints and terrors make it necessary to have the banns published in St. James's chapel; lay heavy penalties on the offending party; banish him for ever from court; incapacitate him if you will from ever sitting in parliament, but do not annul a marriage between persons of age.

The amendment was then rejected, on a division, by 88 to 34.

March 3. The order of the day being read for the third reading of the Bill, the said Bill was accordingly read the third time. It was then proposed, that the said Bill do pass; which being objected to, after long debate, the question being put, was resolved in the affirmative. Contents 69, Proxies 21—90. Not Contents 25, Proxy 1—26.

Protest against passing the Royal Marriage Bill.] Whereupon, the following Protest was entered on the Journals:

“Dissentient”

“1st, Because we think the declaratory principle in the preamble of the Bill to be without foundation in law, (in the extent there stated), to be unnecessary for the avowed purposes of the Bill, and likely to be attended with very dangerous consequences; as that preamble does assert, ‘that we are sensible that marriages in the royal family are of the highest importance to the state, and that therefore the kings of this realm have ever been entrusted with the care and approbation thereof.’

“The maxim here laid down, ‘That, because marriages of the royal family are of the highest importance to the state, they are therefore entrusted to the kings of this realm,’ is founded on a doctrine absurd and unconstitutional, but which hereafter will have the force of a parliamentary declaration of law, the immediate tendency of which is to create as many prerogatives in the crown as there are matters of importance in the state; and, indeed, to extend them in a manner as vague and exceptionable as had ever been done in the worst and most despotic periods in the history of this nation; and we apprehend that some future and even more dangerous use may be made of this preamble, as it is much more extensive than is necessary for any purpose avowed in the Bill:

“2dly, Because this declaratory preamble seems to justify the words which his Majesty has been advised (we think very improperly) to use in his message to his parliament, whereby a prerogative is assumed in an extent for which nine of his judges, in their unanimous opinion delivered to this House, do not find any authority:

“3dly, Because the term royal family being general and not qualified by the exception of ‘the issue of princesses married into foreign families,’ seems to carry

very idly (as we apprehend) the royal prerogative beyond the jurisdiction of the crown of Great Britain, can therefore, as applied in the preamble, be warranted by no law, and is indeed contrary to common sense:

“4thly, Because, if this parliamentary declaration of law can operate in any degree as a retrospect, (an operation against which we have no security by any thing contained in the Bill), it is pernicious and unjust; if it can have no such retrospect, (as was asserted in argument by the friends of the Bill), it is then, at best, frivolous and unnecessary:

“5thly, Because the enacting part of the Bill has an inconvenient and impolitic extent; namely, to all descendants of George the 2d. In course of time that description may become very general, and comprehend a great number of people; and we conceive it would be an intolerable grievance that the marriages of so many subjects, perhaps dispersed among the various ranks of civil life, should be subject to the restrictions of this Act, especially as it has been asserted in argument, and endeavoured to be maintained by the authority of the grand opinion given by the Judges in the year 1717, that the care and approbation of the marriage includes the education and custody of the person; we fear that this extensive power would come in time to make many of the first families in the kingdom totally dependent on the crown: and we therefore lament that the endeavours, so earnestly used in the Committee in some degree to limit the generality of that description, were not suffered to take effect:

“6thly, Because, as the line is too large with regard to the description of the royal family, so we think that the time of non-age for that family is also improperly extended. We conceive that the age of twenty-one years is that limit which the laws of this country and the spirit of the constitution have, with great wisdom, given to minority. It seems indecent to the royal family to suppose they will not be arrived at the age of discretion as soon as the lowest subject of the realm; and we cannot conceive but they may be as capable of chusing a wife at the age of 21 as of being entrusted with the regency of the kingdom, of which by law they are, at that age, capable. We also conceive, that the deferring their age of majority, as to marriage, till 26, is impolitic and dangerous, as it may tend to drive them into a

disorderly course of life, which ought the more to be guarded against in men of high rank, as the influence of their example is the most forcible and extensive.

"7thly. Because the power given by this Bill to a prince to marry after the age of 26, having first entered in the books of the privy council his intention so to do for 12 calendar months, is totally defeated by the subsequent proviso 'unless both Houses of Parliament shall, before the expiration of the said 12 months, expressly declare their disapprobation of such intended marriage.'

"We think this proviso lays great difficulties on future parliaments, as their silence in such a case must express a condemnation of the king's refusal; and their concurrence with such refusal may prove a perpetual prohibition from marriage to the person concerned.

"We conceive the right of conferring a discretionary power of prohibiting all marriages (whether vested in the crown alone, as intended by the Message, or in the manner now enacted by the Bill) to be above the reach of any legislature, as contrary to the original inherent rights of human nature, which as they are not derived from, or held under civil laws, by no civil laws whatsoever can be taken away. We freely allow, that the legislature has a power of prescribing rules to marriage, as well as to every other species of contract; but there is an essential and eternal difference between regulating the mode, in which a right may be enjoyed, and establishing a principle, which may tend entirely to annihilate that right. To disable a man during his whole life from contracting marriage, or, what is tantamount, to make his power of contracting such marriage dependant neither on his own choice, nor upon any fixed rule of law, but on the arbitrary will of any man, or set of men, is exceeding the power permitted by the divine Providence to human legislators; it is directly against the earliest command given by God to mankind; contrary to the right of domestic society and comfort; and to the desire of lawful posterity, the first and best of instincts planted in us by the author of our nature, and utterly incompatible with all religion, natural and revealed; and therefore a mere act of power, having neither the nature nor obligation of law.

"8thly, Because we conceive this Bill to be pregnant with civil discord and confusion: it has a natural tendency to pro-

duce a disputed title to the crown: if those who may be affected by it are in power, they will easily procure a repeal of this Act, and the confirmation of a marriage made contrary to it; and if they are not, it will at least be the source of the most dangerous party that can exist in any country, a party attached to a pretender to the crown, whose claim, he may assert, has been set aside by no other authority than that of an Act, to which the legislature was not competent, as being contrary to the common rights of mankind: such a claim, supported as it may be, by peculiar hardship in the case, must, as we conceive, at no very remote period, create great mischief and confusion.

"Lastly. Because this Bill, which resorts to such harsh and unusual methods, at the same time provides for its own purpose very uncertainly and very imperfectly: for it secures no remedy against the improper marriages of princesses married into foreign families and those of their issue, which may full as materially affect the interest of this nation, as the marriages of princes residing in the dominions of Great Britain: it provides no remedy at any age against the improvident marriage of the king reigning, the marriage of all others the most important to the public: it provides nothing against the indiscreet marriage of a prince of the blood being regent at the age of 21, nor furnishes any remedy against his permitting such marriages to others of the blood royal; the regal power fully vesting in him as to this purpose, and without the assistance of his council. We cannot therefore, on the whole, avoid expressing our strong disapprobation of an Act, shaking so many of the foundations of law, religion, and public security, for ends wholly disproportioned to such extraordinary efforts, and in favour of regulations so ill calculated to answer the purposes, for which it is pretended they are made; and we make this protest, that it may stand recorded to that posterity which may suffer from the mischievous consequences of this Act, that we have no part in the confusions and calamities brought upon them, by rendering uncertain the succession of the crown. (*Signed*) Richmond, Fitzwilliam, Devonshire, Abergavenny, Stamford, Albemarle, Milton, Portland, Dorset, Craven, Abingdon, Torrington, John Bangor, Rockingham."

"Dissentient"

"Because the liberty of marriage is a natural right inherent in mankind:

"Because this right is confirmed and enforced by the holy Scriptures, which declare marriage to be of divine institution, and deny to none the benefit of that institution:

"Because the law of nature and divine institutions are not reversible by the power of human legislatures:

"Because there is a total difference between regulating the mode of exercising a right derived from the law of nature, and assuming or granting a discretionary power of taking it quite away:

"Because though we think it expedient and agreeable to the dictates of reason, that minors should not marry without the consent of their parents or guardians, and that such consent should be necessary to render their marriage good and valid, as it likewise is in the exercise of all their other rights during the term of their nonage, it can no more be inferred from thence that we acknowledge a right to continue such restraint throughout their whole lives, then we acknowledge a right to keep men or women in a state of endless nonage, which, unless in the case of idiots or incurable lunatics, would be absurd, unjust, and a manifest violation of the law of nature.

"Because, if a perpetual restraint upon marriage, or power given to restrain it, without limitation of time or age, be contrary to the natural divine laws, (as we apprehend it to be) a law authorizing such restraint, or conferring such a power, must be null and void in itself.

"Because, in any case where the right of succeeding to the crown of these realms, may come to depend on the force or invalidity of the power given by this Bill, an appeal made against it would probably bring upon the royal family and the nation all the miseries and horrors of civil war:

"Because, though the placing such a power in the king, with the interposition of both Houses of Parliament, is a better security against the abuse of it than if it had been entrusted to the king alone; yet it may be so used, in corrupt or violent times, as to be made, in some cases, a perpetual negative on the freedom of marriage:

"Because, if the power be grievous and contrary to the inherent rights of mankind, the grievance is increased by

the infinite number of persons over whom, in the course of time, it is likely to extend:

"Because we are convinced, that all the good purposes and objects of the Bill, which we have greatly at heart, might have been answered without giving that perpetuity of restraint over the freedom of marriage, which we think ourselves bound in conscience to oppose. (*Signed*) Radnor, Clifton, Temple, Lyttelton, Abingdon, Craven."

"And because the Bill is essentially wanting to its avowed purpose, in having provided no guard against the greater evil, the improper marriages of the princes on the throne. RADNOR."

*Debates in the Commons on the Royal Marriage Bill.**] March 4. The Bill

* "The Bill was opposed with extraordinary vigour in both Houses. New motions were continually made, either to expunge or to amend those that were thought to be its most exceptionable parts; and every degree of parliamentary skill was used, either to obstruct its progress, or to improve its form. Notwithstanding these impediments, it was carried though the House of Lords with wonderful dispatch, and, though it was brought in late in February, passed through the last reading on the third of March.

"In this course of its progress, one of the first measures that was taken was to demand the opinion of the judges, how far, by the law of this kingdom, the King is entrusted with the care and approbation of the marriages of the royal family. The opinion returned by the judges was, that the care and approbation of the marriages of the children and grand-children of the King, and the presumptive heir to the crown, (other than the issue of foreign families) do belong to the kings of this realm; but to what other branch of the royal family such care and approbation do extend, the judges did not find precisely determined.

"The question was put separately upon the preamble and most of the clauses, whether each, in itself, should be left totally out; and again, upon the omission of particular parts, and for amendments to others. One of the principal amendments proposed was, that the operative powers of the crown should be restrained to the children and grand-children of the reigning king, and the presumptive heir to the crown; another was, that the restrictive limitation of age should be placed at 21, instead of 25 years of age. These questions, and every other, were over-ruled by a majority of considerably more than two to one; and at the third reading the Bill was carried without any amendment, by a still greater majority, the number, including proxies, amounting on the one side to 90, and only to 26 on the other. It

for the better regulating the future Marriages of the Royal Family was brought down from the Lords by the lord chief baron Parker, and Mr. Baron Smythe.

Mr. Seymour moved for the King's Message to be taken into consideration first, as by the order of the day, and then Mr. Jenkinson got up and said, the compliment that was always paid to such a Bill, was, that it should be read the first time immediately. Mr. Seymour desired that the Message might also be read, that the House might take that also into consideration; for as he was against the Bill itself, he should oppose it in every stage; that the Message was highly blameable, and the person who drew it up, he would not hesitate to say was highly criminal; that it appeared to be drawn up by a person whose breast swelled with prerogative doctrine; that it contained an assertion of facts contrary to law; he also understood that the matter had had a thorough discussion in another place; and that he

was however attended, on its passage, by a protest of great length and force, signed by 14 lords, and by another, not so long, signed by six lords only.

"This Bill met with a still greater opposition in the House of Commons, where every inch of the ground being also disputed, and the numbers on both sides more nearly on an equality, the debates were longer continued. As the opinion of the judges seemed to call in question the legality of some assertions in the message, which were notwithstanding repeated and acknowledged in the preamble to the Bill, and it was said, that the manner in which the Bill was hurried, looked as if it was intended to take an advantage of the absence of the gentlemen of the law, who were mostly engaged on the circuits, it was therefore moved, to have the Journals of the Lords inspected, that the House might receive the best information that it could in that respect. This being agreed to, a motion was made that the Bill might be printed, that the House might have it in the most exact manner for their consideration; this was refused by administration, who said the Bill was so short, that every member might have time to read it before the second reading came on in the House; this refusal, in a matter of such a magnitude, and so remote in its consequences, was represented as very indecent, if not unfair; the question being however put, it was rejected by a great majority, the numbers being 193 against, to 109, who supported the motion.

"Notwithstanding the issue of this first essay of strength, every part of the Bill continued to be controverted and debated with the greatest vigour. The House was generally pretty full, and sat always very late." *Annual Register.*

should move for a Committee to be appointed to inspect the Journals of the House of Lords; but being premature in his motions, the Speaker put the question, that the Bill be now read a first time; the Speaker then read the Bill, and also informed the House what it enacted. Sir Joseph Mawbey moved, That the Bill be printed; but his motion being also out of order, some little debate happened about the propriety and order of the motion.

Mr. Seymour then renewed his motion for the Committee. Mr. Dowdeswell seconded it; he observed that the prerogative doctrine in the Message, that had been mentioned by his hon. friend, was certainty by its descent allied to the Star-chamber, and could only derive its extraction from thence; he insisted upon it that the Message contained assertions that were contrary to law, and had been declared so by men eminent in the law, as was now well known to every member in the House individually, though not signified to it as a body; that they had not now the same opportunity of consulting these learned men, as they were most of them gone upon the circuit. He therefore seconded this motion that he might get all the assistance he could from the Journals of the Lords.

The motion for a Committee was carried, and the second reading was ordered for the 9th instant.

The motion for printing the Bill then took place. Lord North said, that he could not do otherwise than oppose such a motion, as there was no reason given that could persuade him, that there was any necessity for it; the Bill being so short and lying upon the table, every member might make himself master of the contents.

Mr. Thomas Pitt said, that every word in that Bill, being of such momentous importance to the community, ought to be as much weighed and considered as a whole clause in ordinary acts of parliament.

Sir W. Meredith said that he had searched the history of this country from the earliest times, and could not find a single precedent to support such an assertion as was contained in that Bill: he thanked the noble lord for giving him to understand that it was to be an alteration of the law, and the Bill was not formed upon any one existing statute.

The House was then divided by lord North upon the motion for printing the Bill. The Yeas went forth.

Tellers.

YEAS	{ Sir Joseph Mawbey - - }	109
	{ Mr. Pitt - - - - - }	
NOES	{ Mr. Cooper - - - - - }	193
	{ Mr. Lockhart - - - - - }	

So it passed in the negative.

March 9.* The House was moved, that his Majesty's Message might be again read. And the same was read accordingly. The House was also moved, that the two Questions, put by the Lords to the Judges, and their Answers, which are contained in the Report made from the Committee appointed to search the Journals of the Lords, might be read. And the same were read accordingly. (See p. 386.)

Mr. *Dowdeswell* then rose and informed the House, that he should move a resolution before the order of the day came on, upon part of that Report which was just then read; observing, that he was as full of duty and affection to the King as any member of that House, that he should consider the Message to them as advised by the minister, and brought there by the noble lord in his official capacity; he therefore would not hesitate to say, that the Message contained an assertion contrary to law, and not warranted by the opinion of nine judges out of twelve; he apprehended one day or other, was the present royal family to be extinct, which he hoped it never would, and the line of the princess Sophia also to cease, that many of the noble families of this kingdom would be involved by the right as claimed by the crown, and this country would be then over-run with contentions who should enjoy the throne. He then mentioned the ground upon which the Judges in the year 1717 formed an opinion for the crown, with regard to the care and education of the children of the king, which was called 'the Grand Opinion;' he also took notice of the private manner in which these judges deliberated, permitting no one to be present at the time, the secretary being turned out of the room; that little credit ought to be given to opinions so delivered, such secrecy of their ground upon which they judged being liable to produce great suspicion.

He then mentioned a number of cases

* No persons were admitted into the House of Commons this day but members; the gallery door was locked, and notwithstanding several noblemen made application for admittance, they could not obtain it.

that history afforded, where the kings of this realm had been very much against and disapproved of marriage contracts made by their children, but observed, that there was no one instance where a marriage was absolutely forbid, or the power of a negative ever exercised and made use of by any king whatever. He mentioned the case of the countess of Shrewsbury * in Coke's Reports, p. 94, that she was fined for the contempt only, and not for the offence; the crime he said for which she was punished, was for refusing to answer; that powers had often been given by kings to ambassadors to marry their children by proxy, but that was only an assent; that an absolute negative to put a stop to marriages of their children had never yet been put into practice to any effect. He mentioned, among many others, the case of the duke of York upon sir William Temple's letters to the king, where it appeared, that the king's wish being to put a stop to the marriage then going on, the duke of York returned for answer, that he would comply, and wished every subject would shew as much obedience to the king's will as he did. This was by no means proving any compulsory power in the king, but only shewed the desire of the duke of York not to act contrary to the king's wishes. That if the kings had ever any such prerogative, there had opportunities enough offered for their exercising it, particularly the case of John of Gaunt, who made a very imprudent match with a widow who had four children; this, surely, was enough to incite the indignation of the throne, if there had been any such power lodged in it. Had the duke of Cumberland married a person ever so much inferior in rank and family, than that which he had married, for every one knew that she was the descendant of an ancient English family; but had he married a person in the lowest rank of life, what legal remedy or proceeding was there that could punish such an offence? That there could be no such thing existing as a right without a remedy. He thanked God the Star Chamber was now abolished; and though such a right might have been claimed at that time, and found its remedy, the Act which repealed that arbitrary court, no man of liberty would deny, but that it was a proper one. The judges held there was no prerogative which could not come legally into Westminster-hall. It was happy

* See Howell's State Trials, vol. 2, p. 769.

for us, he said, that the opinion of nine judges at this present time had declared only as to the children, grand-children, and presumptive heir; that they could not find any precise description of its extending further to the distant branches of the crown. He said, that when men came to years of discretion, to the legal age of marriage, it was just and proper that they should be at their own disposal, and not subjected in a country which called itself free, to the caprice of any man. Law, positive law, not the arbitrary will of an individual, should be the only restraint. Men, who were by law allowed at one and twenty to be fit for governing the realm, might well be supposed capable of chusing and governing a wife.* One and twenty was the legal age of marriage for ordinary mortals. Why, then, should a different rule hold with respect to the royal family? Did their understandings ripen more slowly, or were they men later? In the succession to the crown we had adopted a different rule. We supposed them at eighteen equal to the arduous task of swaying the sceptre, and at one and twenty they might be regents. Why, then, establish such opposite and contradictory maxims? He said, he would not now make any objections to the Bill, as a proper time would come for that to be discussed. His observations were confined to prove, that the assertion in the Message, &c. contained in the preamble to the Bill, was not founded in law; supposing it had been such a prerogative as was there claimed, the ministers ought to have advised a total silence as to the claim of it. That it was dangerous even to admit of such a claim, lest other prerogatives might find their way down to these doors, however bad and contrary to the interest of the people, and might, under a like colour and pretence, pour fast upon our li-

* Upon this part of Mr. Dowdeswell's Speech the following Lines appeared in most of the daily papers:

Quoth Dick to Tom,—This Act appears
Absurd as I'm alive;

To take the Crown at eighteen years,
The Wife at twenty-five.

The myst'ry how shall we explain?

For, sure, as Dowdeswell said,

Thus early if they 're fit to reign

They must be fit to wed!

Quoth Tom to Dick,—Thou art a fool,

And little know'st of life;

Alas! 'tis easier far to rule

A kingdom than a wife.

[VOL. XVII.]

berties, and obtain the concurrence of this House. He therefore could not wish to proceed any further, till a point of such material importance to this country was fully settled and ascertained; and, in order to take the sentiments of the House thereupon, he desired to move the following Resolution,

“That it does not appear that the proposition affirmed in his Majesty's Message to this House, viz. ‘That the right of approving all marriages in the royal family has ever belonged to the kings of this realm as a matter of public concern,’ is founded in law, or warranted by the opinion of the judges of England.”

Mr. Seymour seconded the motion. In support of it, he observed, that the Message should be narrowly scrutinized, for that it contained matter of serious moment, and ought to be thoroughly canvassed; and that in this case, where the Lords had sent down a Bill for the approbation of that House, he should look upon himself as an architect, to whom a plan was delivered; that he must first of all examine the foundation of the building, to see if it was sound and firm, if bad to amend it, and if good continue it; that he had looked into the statute-books over and over; that he had never found even one single idea of such a prerogative existing as was contained in the Message, and continued in the preamble of the Bill; that the Lord Chief Justice (Mansfield) who was said to have framed this Bill, if he framed it from any statutes, it must be from those hidden dark prerogative archives in his own breast, which he kept there as sacred and as secret as his opinion upon the Middlesex election; that he should look upon himself as a disgrace to his family, if he did not contend against the prerogative claimed in the Message; that one part of his family would perhaps have not now existed, had such a right subsisted. He mentioned lord Hertford's marriage with lady Catherine Grey; that, though objected to, was proved valid at common law; he said that queen Elizabeth never made use of her prerogative but when it served her own interest and purpose; when the duke of York was married, parliament never interfered; the king ordered the bishops to make their reports, they did; and the king said, that as he had brewed so he must drink; that the marriage was valid and good. He now rose only to deny that claim of prerogative asserted in the Message; and if any one

[2 D]

would get up and say that the crown had a remedy in law appertaining to such right, he would give up his proposition; that the crown, asserting such right, should make it good by law; that the Act of the 16th of Charles 2, took away all the proceedings of the Star-chamber; (which Act was desired to be read at the table;) he then observed, that since that court, instituted for such vile, arbitrary purposes, was now at an end, he apprehended that there could be no such right existing as the one claimed, as there was now no remedy left. He mentioned some cases of marriages objected to by the crown, but never so as to exercise a power of putting a total stop to them. He hoped that this motion of his right hon. friend's would be paid due attention to, and that the House would consider that the permitting this claim to exist might be of the most dangerous consequence.

Mr. *Welbore Ellis* then got up, and observed how great a constitutional point this question was; that any member of the House might make himself master of it as well as a lawyer: he seemed to allow, that no prerogative could be held by the king, but from the common law, and none was valid but when exercised for the good of the people; that there ought to be such a prerogative existing in the crown; for if the care and approbation of the marriages of the king's children, and the royal family, was necessary to be lodged somewhere, in whose hands could it be so properly placed as in those of the king? He then proceeded to mention a number of cases, to shew that the kings had always approved and consented to give their children in marriage, but he did not produce one where a negative had been exercised to effect in the crown; that the kings had always contracted, and been concerned in the marriages of their children. He forbore, he said, to trouble the House with more than the few cases he had mentioned, but that he must conclude that the crown had such right as claimed; that no instance could be produced where any of the children of the king had married, and the same had been signified to parliament, but that the consent and approbation of the crown always accompanied such notification to this House; that he thought this question was only moved to delay and put off the consideration of the Bill itself; and that the gentleman who made the motion, apprehending few objections could be urged, so as to

make a debate against the propriety of it, had entertained the House with this question; he therefore thought it not improper to suggest and move the order of the day.

Mr. *Herbert* expressed his dislike to the preamble of the Bill, and wished for a day to be appointed on purpose for the taking it into consideration, and also, if necessary, that a censure might be passed upon those who had recommended that measure. He concluded with seconding the motion for the order of the day.

Lord *John Cavendish* said, that he thought the hon. gentleman, from the arguments he made use of, would have concluded in a different way; but as the order of the day was now to supersede this great question, he must beg leave to observe, that for his part he could not understand how far the words 'care and approbation' extended; that they were ambiguous terms. Did it ever appear, that any such marriage had at any time been invaded and put an end to? The question moved before the order of the day brought a very important point before the House, which, in his opinion, ought to be first settled singly and simply by itself, as a proposition of the utmost consequence.

Lord *Clare* said, that he thought this House was competent to judge for itself without the opinion of the Judges, and was much surprised to find that the right hon. gentleman who made the motion had adopted the opinion of the Judges, and stated it in his motion as the ground of it.

Mr. *Thomas Pitt* said, that of all methods to obtain the consent of the House, that of the assertion of such a claim in the preamble of this Bill, he thought the most extraordinary, for he thought that it was rather preventive than inducive; he observed that they had not had as yet the Judges' opinion; that the House of Lords had this advantage at least over the House of Commons; that he could not approve of the preamble, nor indeed of the Bill, for that he always entertained a strong suspicion of laws, whenever they were made upon the spur of any particular occasion. If a law was necessary, make it at a time when you are not drove to it, and then argue the expediency, and the legislature will grant the law willingly without contest. He said it must be a very weak constitution where the king had no concern in the marriages of his own children; but that he, for his part, could not give his consent to

the prerogative in the extent claimed, unless he was as complaisant as one of the present judges of this age, who expressed himself in these words with regard to prerogative, 'That it is never to be supposed that the king will do wrong, or abuse his prerogative, and that every man who speaks like a lawyer must be of that opinion.' That he believed the king had as much power to force the inclinations of his children as to prevent them; that he verily believed there was a power in the crown to approve in some degree of the marriages of their children, but not to the extent which is mentioned in the preamble of the Bill.

There were many more speakers in this day's debate, which was violent and long. The minority kept close to the point, spoke much on the cruelty, the injustice, the tyranny intended to the future branches of the royal family by this unconnected, inconsistent Bill; urged the evil effects it might have on the peace, the laws, and the liberties of this kingdom, besides its evident tendency to influence the succession to the crown of these realms in times of party or civil dissension; and pointed every argument home to the hearts of the ministry. Two or three speeches on the ministerial side were replete with much sarcasm, some argument, and had the advantage of being well spoken.

Mr. Fox entered on the matter in debate. He said that it gave him much pain to be obliged to differ from a minister, whose general conduct he so much approved, and whose political principles he admired: a minister, who, with unexampled spirit and resolution, had stood forth in the most critical and dangerous moment to save his country from that anarchy and confusion into which it was about to be plunged by factious and ill-designing men. But that since, by some unaccountable fatality, the same minister was become the promoter of a Bill which seemed big with mischief, and likely to bring upon the country that very disorder and confusion from which his former conduct had rescued it, no consideration of regard or good opinion should prevent him from giving his most determined opposition to every part of the Bill in every stage of its progress. He then entered into the argument, and in the remainder of his speech there was nothing personal to lord North.

When lord North rose to speak in the

course of the debate, he took notice of what Mr. Fox had said with regard to him, and observed, that he should always lament when a gentleman of whose abilities and integrity he had so high an opinion differed from him, and that the manly, open, and spirited manner in which that gentleman had, from the first, communicated to him his objections to the Bill, and his intentions of opposing it, had increased instead of lessening the esteem in which he held him.

The debate lasted till half past one o'clock in the morning, when the question being put, that the other orders of the day be now read, the House divided. The Noes went forth.

Tellers.

YEAS	Mr. Onslow	-	-	-	} 268
	Mr. Cooper	-	-	-	
NOES	Mr. Charles Fox	-	-	-	} 140
	Mr. Seymour	-	-	-	

So it was resolved in the affirmative.

The motion for the second reading of the Bill being then put, sir William Meredith said, that it was then half an hour after one o'clock, that several members had retired through fatigue, and that he would move that the House do now adjourn. Upon which, the House divided. The Noes went forth.

Tellers.

YEAS	Alderman Townsend	-	-	-	} 134
	Mr. Baker	-	-	-	
NOES	Lord Lisburne	-	-	-	} 226
	Mr. Burrell	-	-	-	

So it passed in the negative.

Colonel Barré then rose and said:

Mr. Speaker; the spirit of administration and the ductility of this House have for some years past been such that as even a ministerial member the other day said, I should not be surprised to see the majority of the House, if ordered by a certain noble personage whom I have in my eye, attempt to come hither upon their heads. Let but the cabinet adopt the most absurd, the most monstrous proposition, and it will be cordially received, and eagerly forwarded in St. Stephen's Chapel. The most deformed and ungainly brats of the minister are sure to be here nurtured and reared up to maturity; a circumstance which puts me in mind of the Indians, who, when they find a monster of a very extraordinary and uncommon ap-

pearance, immediately adopt him as their supreme God, as their 'Jupiter optimus maximus.' The more absurd and detestable any of the premier's plans appear, the greater devotion his worshippers discover. The doctrine propagated by him in the affair of the Middlesex election was pregnant with ruin and disgrace. What was the consequence? The zeal of his adherents increased in proportion; and they endeavoured to cover the ugliness of the idol by the intenseness of their idolatry. Methinks the same symptoms are visible upon this occasion. What is wanted in argument, gentlemen attempt to supply by vehemence. Hence, had I not other authentic intelligence, I could trace the origin of this Bill, which is evidently a king's measure. Who, then, wonders that the whole kingdom is set in motion, and that members, who seldom honour these walls with their presence, are pressed into their service? I have no doubt but we shall soon feel the effects of such an extraordinary effort in the arrears of the civil list. The final decision of the Middlesex election was soon followed by a demand of more than half a million of money; and the reason why it was immediately granted without any previous enquiry into the manner, in which the debt was contracted, can be as little problematical in this assembly as it is throughout the whole nation.

I therefore congratulate the abettors of the Bill upon the prospect of the fine harvest, which lies before them. The crown will certainly shew its gratitude for so great an accession of prerogative, what though this violent act tears away the brightest jewel in his Majesty's diadem, the affection of the people, and in its place substitutes fear and jealousy? Such a consideration is in these days no moment. 'Oderint dum metuant' seems now to be the favourite maxim inculcated by those whom the King delighteth to honour. Having sapped the foundations of the constitution, having in their own opinion imposed the yoke, and rivetted the chains of the people, they would, in order to make every thing sure and solid, reduce every branch, every individual of the royal family to the same abject state of servitude. Observing that the divisions of the regal line frequently contributed in ancient times to the preservation of liberty, because the discontented princes threw themselves into the scale of the people, and thus formed a balance to the ex-

cessive weight of the crown; observing, I say, this circumstance, they will not even leave the semblance of liberty to these devoted victims, but render them totally dependent upon the caprice of a king; or rather of his minister.

But is this plan in fact calculated for making the royal line entirely subservient and obsequious to the sovereign, and for producing that despotic calm, at which they aim? On the contrary, it will prove the source of endless dissensions and quarrels as well among the royal family as among the people. Do you imagine that any man arrived at the age of maturity, much less a young spirited prince, will submit with patience to the loss of the rights of a man, to that power enjoyed by the meanest subject, to the right of disposing of himself in marriage, when he has arrived at the legal age of maturity, at the common years of discretion, which entitle all but idiots and lunatics to chuse a help-mate for them, as their own fancy directs. Is it the intention of the minister by this Bill to make us insinuate that our royal family are but idiots or lunatics? Though they have not sagacity to perceive it, this is the compliment which they pay to his Majesty, when they suppose his family incapable of walking without leading strings till the age of twenty-five? Why do I say the age of twenty-five? The Bill continues their state of minority for ever, and leaves them pupils and wards of his Majesty and the parliament all their life. In order, however, to make amends, his majesty, let him be ever so young, ever so ignorant and inexperienced, is supposed to be at eighteen endowed with every good quality both of head and heart, being invested with power to provide himself a proper consort, and to act as a guardian to his former guardian, to the man who was perhaps regent of the realm, superintended his education, and provided him with swaddling clothes.

Sir, you need not smile. Princes, like other mortals, must be rocked in their cradles, and have their rattles and hobby horses. However much deified upon the throne they were once but boys. I wish they did not frequently continue so, and prove themselves not only less than men, but more mischievous than unlucky boys. Had this Bill been calculated for confining their freaks and sallies within bounds, its object would be rational; because, as the influence of the crown is now so much extended, they are of all others most to be

dreaded. You may give them what epithets you please; you may call them God's viceregents and vicars-general upon earth. Names will not alter the nature of things. They will not prove less tyrannical and despotic. Nay, the higher you exalt them, the more they will trample upon their subjects. When this is the state of the case, why should I wonder that you have chosen this dark and midnight hour for so black and atrocious a deed; this is the murderous season of the night, and you have with propriety pitched upon it, for giving a vital stab to liberty, and for effecting a purpose much more hellish than the gunpowder-treason. Kings, Lords, and Commons may soon be replaced, all blown up in the air; but a lost constitution who can restore? Men are the offspring of a single generation; but a system of wise laws is the work of ages.

Mr. Sawbridge next moved, "That, it being three o'clock, this House do now adjourn." This motion was seconded by sir R. Clayton; however, the House did not think proper to divide upon it. The gentlemen in the minority thinking the best way of dividing would be to leave the House, most of them quitted it immediately, and left the ministry and their friends to finish the business. The Bill was then read a second time.

March 11. The order of the day being read for going into a Committee on the said Bill, a motion was made, That the Speaker do leave the chair. A long debate ensued, which lasted till twelve o'clock. The following is a List of the gentlemen who spoke for and against the question, numbered according to the order in which they spoke:

Noes.	Ayes.
1. Hon. Stephen Fox	2. Mr. Hart
4. Lord Bellasyse	3. Mr. Stanley
5. Capt. Phipps	6. Mr. Cooper
7. Mr. Herbert	10. Mr. Onslow
8. Mr. Hampden	11. Ld. J. Cavendish
9. Lord Folkestone	12. Mr. Sutton
13. Col. Barré	14. Mr. Jenkinson
15. Mr. Charles Fox	16. Ld. G. Germain
	17. Lord Advocate of Scotland
	18. Mr. Rushout
	19. Mr. Dowdeswell
	20. Mr. W. Burke
21. Mr. Cornwall	22. Lord North
	23. Mr. A. Poulett
24. Sir Wm. Meredith	25. Mr. T. Townshend
27. Sir W. Meredith, to reply.	26. Mr. E. Burke
	28. Mr. E. Burke, to reply.

In the course of the above debate,

Lord Folkestone said:

Mr. Speaker; I cannot possibly give my assent to this motion, nor can I content myself with giving a silent negative. The question seems to be simply this, whether we shall enter upon the alteration and improvement of a Bill which, in my opinion, cannot be so altered, that it ought to pass. It is built upon such false principles, and contains so many exceptionable positions, that I think it ought to be immediately rejected. It is introduced with a preamble highly inadmissible; a preamble which claims a new, unheard of prerogative, a right to the care and approbation of the marriages of the royal family as ancient and acknowledged. A claim, Sir, founded on the Opinion of the Judges in 1717, which, I beg leave to say, is a very bad foundation, because it was extra-judicial at the time when it was given, and is unsupported by the authority of the present judges. After the free, and, I think, deserved criticisms, that have been made upon this *grand opinion*, as it is called, it will not, I hope, appear presumptuous in me to express my doubts of its authority; and I shall do so, for this simple reason, because I conceive a right without a remedy, which, in this instance, if it means any thing, must mean a right of directing a marriage without means of enforcing a compliance; a right of prohibiting a marriage without means of punishing disobedience, is in law, as in common sense, a non-existent; and that there is no such remedy I infer, because the judges who gave this opinion, as well as those who have defended this claim here, have produced no one positive proof of it, and those oblique ones which they have produced may all be reduced to one or other of these causes; either an apprehension of imprisonment, which, however illegal, the crown formerly exercised at pleasure, or the vanity of having the king a party to their marriage settlement. I infer it likewise from the conduct of ministers upon this present occasion; the marriage of the duke of Cumberland, who, if there be such a prerogative as is contended, must out of mere consistency have enforced it against him, since it is thought so flagrant as to occasion this Bill. I infer it likewise from the words of the Bill itself, which says, that a marriage of a certain description, part of which description is, that it is contracted not only with-

out the consent, but with the express dissent of his Majesty, shall, under certain circumstances, yet be good, "*as if this Act had never been made.*" Sir, I doubt the authority of this opinion also, because it appears to induce an absurdity; for let us see, who are meant by the royal family; if it means all the descendants of a certain given stock, why, then, at one time, if not at present, many thousand persons were included in that description. We are told, indeed, but we have no security against a retrospect, that the Act of Settlement excludes from that description all persons descended from the sovereigns previously upon the throne; but, then, how was it before the Act of Settlement? Can it be conceived that, when our ancestors destroyed the Court of Wards, and other arbitrary modes of oppression, they meant to leave this fruitful source of still greater hardships, especially as those, who maintain the validity of the claim, allow that care of the marriage includes the education, and *à fortiori* the education includes the custody of the person? Again, if by the term are meant only those who are within a certain degree of relationship to the sovereign, then, in many instances, the heir presumptive would not be included, and it is more reasonable that the heir presumptive, though a distant cousin, should be included, than even the brother, who may be many more, but in the present instance is removed ten degrees from the succession. Sir, if the heir presumptive is included, it is to my apprehension likewise absurd, because of the uncertainty of his being such. A man may be heir presumptive to-day, not heir presumptive to-morrow, and heir presumptive again the next day. In the instance of his present Majesty, if he had been so unfortunate as to have lost his children soon after their birth, the next brother of his Majesty might have been nine times in that situation, and eight times out of it in the last ten years.

Sir, if we compare the notorious occasion of introducing this Bill (the marriage of the duke of Cumberland with a subject) with another part of the preamble, as it is introduced, (I mean that part which mentions the royal concern for the honor and dignity of the crown) we shall find a doctrine, which I, for one, shall ever think it my duty to oppose, we shall find a doctrine, which I cannot help thinking the representatives of the people, that people, whom I think obliquely insulted by the

words, will unitedly oppose, we shall find it is the opinion of the minister speaking in his Majesty's message, that an alliance of a subject with a branch of the royal family is dishonourable to the crown. Sir, I will speak to that point presently, but I must say a few words as to the partiality that has introduced this Bill. Sir, report says, that the King's other brother is married to a private person, and if it describes her rightly, to one much more exceptionable in point of birth, than the duchess of Cumberland. The point I allude to is so evident, that as I would not wantonly offend any one, I purposely omit it. But I must say, if our ministers had been consistent in their principles, or impartial in their practice, this Bill would have been introduced before, or would not have been introduced now. If it had been introduced before, the present imaginary mischief would have been prevented: if it had not been introduced now, they would not have been brought to so disagreeable a dilemma. Now as to the practice: And not to tire the House, I will not attempt to enumerate the many instances, where the male branches of the royal family, where the kings upon the throne have intermarried with private persons; but taking it for granted, that if this kind of connexion is at all exceptionable it is doubly so, when made by a female branch of the crown, I will only mention a few of the many instances that occur in our history of such marriages, and in doing this will take notice only of such as either actually did, or at least very probably might have carried the right to the crown into private families. The only daughter, and heiress of Lionel duke of Clarence, second surviving son of Edward 3, and on the death, if not the dethronement, of his nephew Richard 2, undoubted heir to this crown. His only daughter, I say, married the earl of March, a private subject, and whoever is acquainted with the historical genealogy of our royal family must know, that the just pretensions of the House of York were founded on this match. Edward 4 had several daughters, and in the eldest of them sir Edward Coke expressly says the right to the crown was vested. She was married to Henry 7, and as they had issue the crown continued of course in that line; but what if they had not had issue? Why this eldest daughter's right would clearly have passed successively to the younger sisters, who were severally married to lord Welles, the duke of Norfolk, and

lord Devonshire. Mary, second daughter of Henry 7, married to her second husband the duke of Suffolk, a private person, and Margaret, the elder sister, married first the king of Scotland, but secondly the earl of Angus, and from those two marriages James 1 derived his double claim to this crown. And this is the more remarkable, as, if Mary, queen of Scots, king James's mother, had died without issue, lord Darnley, Mary's husband, and king James's father, was the next entitled to it. And to this day nothing prevents, nor indeed by this Bill is absolutely to prevent the marriage of a subject with a princess of the blood royal, which, as I said before, must be productive of complicated mischief, if there be any at all in marriages of this sort. But as our government is constituted, as it is a government of law executed only by the sovereign, I confess, I see no such misfortune. True, indeed, those who have a relationship with the reigning prince, may attract the envy, the jealousy of those, who have it not, but for the same reasons all attractions of envy and jealousy ought to be removed. Again, if relationship be of so superior a recommendation as that the person so related may attain to, and enjoy the highest honours of the state, may be able to provide for every the most distant relation, and dependent, yet what is that more than many favourite ministers have done? Could sir Robert Walpole, for instance, had he been next of kin to his late majesty, have been invested with more ample powers than he was? Could he have exerted a more general influence? It will be no answer to my argument to say that an accumulation of exorbitant power by a minister, is an abuse of royal confidence, and an accumulation of it by a relation, the consequence of natural affection. In both it is an abuse, and the king, who from good motives will not trust a minister with exorbitant power, from the same motives will withhold it from a relation. Yet after all, if their places be merely honorary, they enjoy them only to the exclusion of those, who have perhaps as little merit as themselves to plead; if they be places of trust, they are equally amenable to justice: and though this idea may possibly disconcert a little the schemes of some future statesman actuated by avarice, or ambition, yet in every department of the state, if the laws be duly executed, and the public tranquillity maintained, it is indifferent to every honest man, through

whose administration these benefits are secured. I assert that the interests of posterity are evidently neglected by this Bill, and it is with peculiar pleasure I quote in support of this assertion the authority of two of those ten judges, who concurred throughout in the year 1717, and whom I produce upon this principle only, that the favourable testimony of an opponent is most favourable. Judge Powys says, "the education of a prince concerns the public much more than his marriage, which concerns private life only," and Mr. Baron Fortescue, the reporter himself, says "an ill chosen match will be most to the prince that marries, and will little affect the state, so long as the prince is steady, and adheres to the constitution." How, therefore, according to another part of the preamble, the future welfare of the people can be materially connected with the marriages of the royal family, I am at a loss to conceive. I know but of two instances which can possibly be urged in support of such opinion, and they are so flimsy and trifling, that one, indeed, only has been mentioned, and of the other I will just say a word by way of prevention. Edward 4 married lady Gray, a private subject, and his reign was certainly unfortunate, but he was so weak, and tractable a prince, that with a controverted title like his, there never could be wanting subjects of complaint. But, I believe, if we examine the histories of those times, we shall find that his people did not complain so much that he married that lady, as that he married her at the very time he had ambassadors abroad negotiating a foreign advantageous alliance. The other instance, and which has been alluded to, is that of the disputes of the Houses of York and Lancaster, which gentlemen suppose arose from connections with private persons, who were mutually interested in defeating, and maintaining the regular succession. Sir, not to enter into the examination of an argument which already pre-supposes, that a connexion with a few private families could involve the nation in a series of civil wars, which subsisted for near a century, I deny the existence of those disputes till the regular succession was by force interrupted, and in consequence fictitious titles to the crown set up. And I appeal to the wisdom of the House, I appeal to common sense, whether those civil wars thus stated are more likely to be renewed by permitting alliances with subjects, or by setting up statute law against

the law of God, as I hope in some degree to shew presently in a greater extent, than, if not without any foundation upon the common law, and by inducing the concealment of a marriage of the king's brother, in consequence of which the legitimacy of the issue, if there is any, will be made doubtful, and if there is none, opportunity be given to pretenders as being the issue. So much, Sir, for the preamble, and if an act of parliament was like an argument, I could be well content to leave it upon its present footing. The falsity of the premises would sufficiently invalidate the conclusion. But I fear the enacting clauses will be equally valid with, or without the preamble; and this is, I think, another reason, why you should omit it. It is thought dangerous by some, ill founded by others, and must be allowed unnecessary by all. It therefore would surely be more moderate, more expedient to omit it, especially as it is not at all essential to the Bill. If we consider the other parts of this Bill, we shall find them little less questionable. It gives a discretionary power to the king for the time being, of approving or disapproving all, or any of the marriages that may be proposed by all, or any of the royal family, till 25 years of age absolutely, so that the king is not only declared by this Bill fully able, wise, and sufficient at eighteen to chuse a proper marriage for himself when the inconveniences of an improper one must be doubly inconvenient, but is authorized to put an uncontrollable negative upon any, or all of the marriages proposed by any, or all of the royal family till 25, the inconveniences of whose improper marriage must be comparatively trifling and insignificant. I would speak as delicately as possible, but I will not limit myself, when I think delicacy will be prejudicial. The partiality of the present reigning family against the heir apparent has been notorious; it is beyond denial certain.—Indeed it is to this circumstance that we owe the grand opinion. But, if it were not, it is a very supposable case, and as such I take it. Let us then suppose some future king takes exception to his eldest son, whether upon good or bad reasons is immaterial: in consequence of this he prevents his marriage. He has a second or third son, who is a favourite, and he consents to his marriage: this younger son has children, who stand in a great probability of succeeding to the crown, on account of the restraint upon the prince of Wales. I

shall be told this restraint lasts only till 25: I wish it may then cease. The power of restraining is then transferred to the parliament. Now, not to speak disrespectfully, or even suppose the ductility of modern parliaments; figure to yourself, Sir, some future one under the influence of the crown, and to give my argument greater scope, let it not be unconstitutional influence, but such as arises from a series of popular acts, by which we will suppose he has ingratiated himself with his subjects, indeed so much as to be, I will say, improperly beloved by them. Will a parliament at such a time, if at any, fail to disapprove of a choice known to be disapproved of by the sovereign, and which by the direction of this Bill, cannot but be known to be so? So many instances occur in our history, where this power would have been exerted, so many cases must offer themselves to the imagination of every gentleman who hears me, where this power may be arbitrarily, and for bad purposes exerted, that it is almost impertinent to enlarge on this point. Sir, the determination is in the king, or in the parliament, and being by no rule, must be as uncertain as their humours, or at least as their existence, and I will not scruple to assert, that there have been times, when the rejection of a proposal of this nature in one reign would in the succeeding one have insured a certainty of approbation. Sir, it is not the least absurdity in this Bill, that there is no definition of an improper marriage, but every king upon his arrival at the throne is, (I suppose instinctively) endued with a power of distinguishing it, and left at liberty to put his own ideas in execution, however capricious, absurd, whimsical, extravagant, or unreasonable they may be. If a marriage of any given description is thought exceptionable by the sovereign, consult the free judgment of the legislature; and if they think so too, let there be no possibility of contracting such a marriage, but do not leave it discretionary—discretionary power is the very essence of tyranny, and only a more courtly term for despotism. We have been lately told, that the definition of discretion, is '*jus discernendi per legem, quid sit justum;*' but as in this case there is no law, no rule, no criterion to judge by, the decision must be arbitrary, must be *ad arbitrium* of another, must depend upon his will and pleasure; and a legal direction to order by the will and pleasure of another, is an unsup-

portable solecism in a free country. In my opinion it would be a milder act, and more reconcilable to the love of freedom to ascertain even the most trifling particulars, to declare for instance, the age, or the name, or the country whence some future bride or bridegroom of the royal family should be elected, than thus to give the power of an universal negative upon any, and every choice. I should be glad to be informed by those who are in the secrets of this Bill where this power is lodged during a minority of the king: if it is not in the regent, the whole royal family may become extinct before a legal marriage can be contracted, and if it is in the regent it would be only wasting time to point out its probable abuses.

I will not enter into the propriety of the annulling clauses; if this Bill should arrive at a committee they will there receive an ample discussion. But I must say a few words as to the power given by the Bill of inflicting on certain persons under a certain description perpetual celibacy: the power of human legislation cannot in the nature of things extend to a prohibition, and it is evident to demonstration that the power here given may extend to a prohibition. So far therefore this Act will be in itself null and void, as contrary to the laws of nature known and felt by all, as contrary to the laws of God revealed in Scripture. Surely it is absurd, that those who are by law capable of executing the regal office at 18, who are capable of being regent at 21, should be incapable of chusing a proper marriage all their lives, and this without one idea throughout the whole Bill of what is, and what is not a proper marriage: and what was the idea of the compilers of it, can only be guessed, and still that guess will be contradicted by their individual conduct on the marriage of the duke of Gloucester. If they mean a marriage with a native is improper, let them say so, and enact accordingly; but on the present footing the exactly contrary opinion may be held, and acted upon by their successors in office, or the next king. In one nation in Europe this is the law; in Sweden females, who in default of male issue succeed to the crown, forfeit the inheritance for themselves and their posterity if they marry out of the kingdom without the consent of the states.

I must now say a few words as to the supposed dishonour of the crown from an alliance with a subject. And to say

[VOL. XVII.]

the truth, I wonder how those who drew this Bill could dare to represent his Majesty thinking, or expect to make the nation think, that which I believe he did not, which I am sure they ought not to think. I never will persuade myself, that any British king, much less one who publicly gloried in "*being born and educated a Briton*," could so far forget the natural equality of all mankind, the boasted independance of every individual in this nation, as to think dishonourable a stream of British blood in any of the royal veins. Queen Elizabeth, whose memory ever was, and ever will be dear to Britons, was the grand-daughter of a private man, and I believe no one on that account ever thought her descent dishonourable. Nor did I ever hear it urged as a disparagement to queen Anne, who, when she told her parliament that her heart was *entirely British*, might perhaps mean it in a literal as well as a figurative sense, and to the parliament of those days it was a recommendation, I say no one ever urged it as a disparagement to her, that her mother was not of royal extraction. Indeed, if reputation abroad, or merit at home, may be admitted into the present argument, I defy you to produce the sovereign, be his descent ever so illustrious, who in general estimation stands higher than the least worthy of these queens. A doctrine of this tendency may possibly with propriety be instilled into the ears of a Don Carlos, or a Don Ferdinand; and their nation of slaves may perhaps hear it with assent and commendation, but an English heart will not relish such doctrine, and a truly English ear it will offend. Sir, after this it may seem needless, but I must just mention the practice of the proudest order of the proudest nation upon earth. I mean the patrician order amongst the Romans; and they admitted intermarriages with plebeians, except only during the establishment of the decemvirate, and as that was an haughty, imperious, tyrannical establishment, I hope no inference in its favour will be drawn from thence: I say they admitted intermarriages with plebeians, because they were not ashamed to form the closest connexions with those who had opportunities, and abilities to serve their country. I may be told their government was republican; true, it was so, but of such a texture, that the patricians enjoyed by turns a temporary sovereignty, and, if the exercise of great power, or the investiture of supreme dignity, confers in-

[2 E]

herent excellence, sometimes enjoyed the one without limitation, and the other in as ample a degree as their municipal constitution could admit.

In short, Sir, to every part of this Bill I object. I object to the declaratory part partly as assuming a new and unheard of prerogative, partly as injurious at least by inference and insinuation to the people, and partly as it is false. I object to the directory part as infringing upon insufficient grounds natural liberty in the person of every one of the royal family: I object to the remedial as investing with despotic powers those who are most likely, because most liable, to be tempted to abuse them; as inefficacious, where efficacy is, if at all, most requisite, and as contrary to the laws of God: and I object to the vindicatory part, as arming unnecessarily the subject against those, who are most nearly connected with him, and all this merely because he is so connected. Indeed, Sir, this Bill is so far from doing, what our liturgy supposes it is the duty of parliament to do, establish peace and happiness, truth and justice, religion and piety, that in my opinion each of them is materially and essentially subverted by it, and therefore I shall certainly vote against your quitting the chair.

The question being put, That the Speaker do now leave the chair: the House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. Charles Townsend	}	300
	{ Mr. Bradshaw - -		
NOES	{ Sir Cecil Wray - -	}	64
	{ Mr. Phipps - - -		

So it was resolved in the affirmative; and then the House resolved itself into the said Committee.

March 13. The House went into a Committee on the Bill, Mr. Welbore Ellis in the Chair.

The preamble containing the assertion of the royal prerogative, governor Pownall moved to leave out those words. He proposed to go into the subject immediately, as it was the foundation of the Bill, and the rule for the provisions of it. Lord North, though it was not the general sense of the ministry, could not in candour refuse to accede to the proposition. The arguments to disprove the claim were the same as before; but the extent of this prerogative was more particularly adverted to: it was shewn how extensively this Bill

must operate in a few ages, when, in the common course of things, so many of the nobility and gentry might be supposed to have acquired some share of the royal blood; that it would, in reality, be increasing the influence of the crown in the same manner as the court of Wards did formerly; as the consent of the king, or his minister, must be demanded for every such marriage; that the preamble, being a declaration, would also act retrospectively, as it would establish a doctrine of power which might be drawn against the late marriage of the duke of Cumberland.

The ministry, on the contrary, called it an harmless prerogative, which could have no retrospect, and which, when in full vigour, had no punishment annexed to the breach of it, and now would only be revived by the enacting penalties, which would leave no retrospect. They then carried the claim by 200 against 164.

March 16. The House went again into a committee on the Royal Marriage Bill. Mr. Dowdeswell moved to leave out the words 'descendants of George the 2nd,' in order to insert other words, viz. 'child, grandchild, and presumptive heir of George the 2nd.'

The *Speaker* said, he would explain an opinion he gave on Friday, which was not well understood. He liked the prerogative as claimed, though a bold, high prerogative. It was harmless, because it was not big with incapacities and nullities; and any offence against it must be decided in the moment. Whereas this law was big with nullities and incapacities, and might come to be decided when all the grounds and evidence was lost, and there was nothing left to decide it but arms. That the supposed prerogative went to the royal family only, not to the descendants, for that all the descendants of any given stock could not be said to be of the royal family. Till there was something done as an act of state, there was no royal family, and it was that act alone which made such. He voted with the ministry.

This uncertainty confirmed every gentleman who was serious in the necessity of drawing some line. At twelve the House divided, whether the word 'descendants' should stand part of the Bill. Ayes 222. Noes 160. The debate then continued till two o'clock in the morning, when the House adjourned to the 18th.

March 18. The committee resumed

The debate was on the words 'except the issue of princesses married into foreign families.' Those words were said not to extend far enough, as it might happen that some of the royal family might be sovereign princes; in which case, the act of an English parliament should not direct them to apply to the king of England for his permission to marry; that, for instance, the bishop of Osnaburgh was a sovereign prince at present, and others of the royal family might marry foreign princesses; that, therefore, the words ought to be 'subjects of the crown of England.'

The ministry opposed this, as the word 'subject' was difficult to be interpreted; that the law could not bind persons settled in foreign countries, otherwise than as to the succession of the crown; but that it was right to except princesses, whose children would follow the right of their father.

It was answered, That, as to the succession to the crown, the issue of princesses, or of princes settled abroad, was in the same predicament; that it might occasion great difficulties and dangers to the nation, from a disputed succession, some coming with, and some without, the formalities prescribed in this act. The question on the amendment was rejected by 188 to 102. To make marriages more certain, and the better to preserve the evidence of them, it was moved by the Speaker, to have the royal consent, under the great seal, instead of the sign manual, which was agreed to by the House. A motion was then made to leave out words relative to the matrimonial contract, which was carried in the negative by 197 to 140.

March 20. The committee continued. The first objection started was, that the king was limited to no time in his refusal. This might occasion difficulties in the persons applying for it, as they could not properly give notice to the privy council, till such denial had been given.

But it was answered, that, if no answer was given in any decent time, it would be understood as a formal denial, and the application would be made to the privy council, who must receive it as acting ministerially only. The amendment was rejected, by 103 to 48. It was then proposed, instead of twelve months, to insert one month, if parliament was then sitting; if not, one month after it should sit. As the intention of this clause was to give parliament an opportunity to interpose, it

was said this could be done as well in one as twelve months. That it would be a very great hardship on the party concerned, to give so long an interval for consideration as one year.

The ministry answered that this delay was the thing wished for, as it would be most likely to frustrate such marriage, even though parliament should not interpose. It was rejected by 127 to 60.

It was then debated, whether it was proper that the Houses of Parliament should be in any manner called upon to interpose. Many inconveniencies and dangers were stated against it: the impropriety of making the proper examination as to birth, fortune, qualifications: and that a vote of the Houses might be had by surprize. At present parliament can stop a match by an act of parliament more proper, as it cannot be made by surprize from the various stages it must go through. Also, that it would create a dangerous canvassing of votes on the occasion, especially if it concerned one near to the throne. On the contrary, the all-sufficiency of parliament was urged, and that it was not very probable to come before it; but if it should ever happen, and parliament oppose such a match, here would be a complete interference of the whole, King, Lords, and Commons. The amendment was rejected by 196 to 107.

In the last clause of the Bill, every person assisting at, or being present at, any contract of marriage of the royal family, without the royal assent, are declared liable to the penalty of a *premunire*. It was objected, that this was a very heavy punishment for a very small or no offence, since it might very easily happen, that a person might be present at a contract with the most laudable motives, and still be subject to it; that the words 'contract of marriage' were very indeterminate, as the civilian looked on a verbal contract as binding.

The *Speaker* entered largely into the statute of *premunire*; observing, that the punishment consisted in a total forfeiture of all goods and estates, imprisonment at the will of the king, and not to be relieved, even if starving; that the occasion of framing such a severe law, was the usurpation of the see of Rome over the civil rights of the kingdom, and the absolute necessity of putting an end to such an *imperium in imperio*; that some time after, a statute had also been made, with the same penalties, against provisions.

The occasion of this was an alarm which had crept into the church, of churchmen getting bulls from the Popes, for their introduction into abbies, livings, and even bishopricks, during the lives of the incumbents, and contrary to the rights of the patrons and churches; that so great an alarm called also for a severe remedy, but that it should not extend to crimes of a very small nature, as in the present Bill; that the clause referred to an Act of Richard 2, called an Act against provisions and premunire, whereas there was no such Act in that king's time; consequently, the clause would be in effect void, if ever attempted to be put in execution.

In answer, the ministry shewed, that the penalty of *premunire* had at different periods been applied to less crimes, as to an Act against Usury, &c. and lately to the Regency Bill; that it was only *in terrorem*, and if it prevented the marriage complained of, it did not signify how severe it was, as it probably would not be put in execution. The ministry divided against the words 'contract of marriage,' 197 to 110: and against the whole clause, 195 to 112.

March 23. Mr. Welbore Ellis reported to the House the amendments of the Committee to the Royal Marriage Bill, which were agreed to. Rose Fuller, esq. then made a motion to insert a clause, that the Act should continue in force for and during the reign of his present Majesty, and for three years after his demise, and no longer; but after a short debate, the question was put, that this clause be made a part of the Bill, when the House dividing, there appeared, Ayes 132, Noes 150; so that the clause was rejected by a majority of only 18. As soon as the above division was over, several of the minority came in, being locked out at the time of the division, which was the means of losing the clause. The Speakers on this occasion were, Mr. Fuller, Mr. Curzon, sir Henry Hoghton, Mr. Mackworth, Mr. Ongly, Mr. Burke, Mr. Dowdeswell, Col. Barré, lord North, the Attorney and Solicitor Generals, Mr. Dyson, and Mr. Cooper. The House broke up at nine o'clock, having gone through the Report.

March 24. The order of the day was read for the third reading of the Royal Marriage Bill, upon which a debate immediately arose, and several speeches came from the opposers of the Bill; but, after

near four hours debate, a leader in the opposition observed, that the many late mornings during the commitment of the Bill were sufficient to convince them that it was in vain to contend against numbers, upon which they consented to have the question put, when the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Dundas - - - }	168
	{ Mr. Bradshaw - - }	
NOES	{ Mr. T. Townshend, jun. }	115
	{ Mr. Charles Fox - }	

So it was resolved in the affirmative. The Bill was passed, and lord North was ordered to carry it to the Lords for their concurrence to the Amendments.

Report of the Committee of the Commons on the Lords sending down Bills by improper Messengers; and on their Treatment of the Speaker and several Members of the House of Commons.] April 1. Mr. Anguish, one of the Masters in Chancery, attended by the Clerk Assistant of the House of Lords, went from thence to the House of Commons to present some Bills to the House, and after they had withdrawn, a member remarked to the House, that the Bills brought were not by the usual messengers, one of them being only a clerk, and, therefore, that the said message was improper. Upon this a motion being made, that the Speaker do not report the said message to the House, it was agreed to; as was also another motion, That a Committee be appointed to examine into the precedents with respect to the Messengers by whom Messages have been brought from the Lords to this House; and to report the same to the House, with what proceedings have been had thereupon. It was also ordered, "That it be an Instruction to the said Committee, that they do take into their consideration the treatment offered to Mr. Speaker and the members of this House, upon the first day of this session of parliament, and to other members of this House attending their duty in the House of Lords, during this session of parliament, when Bills have been passed by his Majesty, or by commission; and to report the same to the House."

April 9. Mr. William Burke reported from the said Committee, That the Committee had searched precedents accordingly; and had considered the other matters referred to their consideration; and

had directed him to make the following Report to the House; viz.

As to the Precedents, your Committee find, on searching the Journals of this House, that the messengers by whom messages have been brought from the Lords to this House, have been usually the chief justices, chief baron, and all the judges of his Majesty's courts in Westminster-hall, the attorney-general, solicitor-general, serjeants at law, and masters in chancery, indifferently; and that the Committee find, by the Journals, that the Master of the Rolls came with a Message to this House upon the 7th of May 1660; the Clerk of the Crown in Chancery the 7th of September 1647; and the 26th of June 1685; and the Clerk of the Parliaments 22d of January 1750, 14th of May 1768, and the 1st of March 1770, accompanied in each instance with one other messenger.

Your Committee also find instances where messages have been brought from the Lords to this House by more than two messengers.

Your Committee likewise find one instance, upon the 31st of August 1641, of a message brought by one messenger only, "When exceptions were taken by the House, that the Lords sent but one messenger, and that it was declared, that it was the ancient right of this House to have two messengers sent from the Lords to this House, upon all occasions; howsoever, at this time, the House was willing to pass it over."

But on sending Mr. Holles with an answer to that message from the Lords, he was likewise appointed to take notice, that their Lordships sent a message to this House by one messenger only.

To which the Lords answer appears to be, "That as concerning the sending by one messenger only, the business required haste, and they sent as many as they had."

That your Committee also find this entry in the Journal of 26th November 1680.

"Ordered, That a committee be appointed to inspect the Journals of this House, and search precedents, touching the bringing of messages from the Lords' House, and make report thereof, with their opinion therein, to the House; and that in the mean time the Clerk of the House do respite the entry of this message in the Journal of this House."

But your Committee do not find that any report was made from that committee.

That your Committee find no one instance of a message sent from the Lords by a clerk assistant of the parliament.

Your Committee likewise took into their consideration the matter referred to them by the instruction; and Mr. *Speaker* being desired to attend, informed your Committee, That the first day of the session, on entering the Lords' lobby, there was a great crowd, as usual on the first day of a session; that he got in with difficulty; and hath heard since some of his officers could not get in; that there was no great crowd in the House when he got in, but after leaving the bar, and before he got to the door, some persons called out, 'Clear the House, Go out, Withdraw,' or to that effect; that he thought it indecent, but cannot recollect the particular expressions which were made use of; that he took notice of it, and was answered, it was not for the members, but strangers to go out; that he understood the calling out came from below the bar, and not from the House; if he had understood otherwise, and had thought it came from the Lords, probably he should have gone back, and demanded an explanation, and should certainly have reported it to the House upon his return; that none of the members, as he recollects, acquainted him that they believed it proceeded from the Lords; that since the meeting of parliament he has been up several times, and never has heard any calling out of that kind happening since the first day; that after he got in, there followed a great crowd, and believes a great many strangers were in the House before he got in.

And being asked, Whether in any former time there was the like eagerness to clear the House? He said, he did not recollect there was, but does not pretend to say the cry did not come from the Lords, but believes it did not. And being asked, Whether he observed the House of Lords below the bar to be crowded? He said, Not when he first went, but very much crowded afterwards. And being asked, Whether, when he got to the bar, and before they proceeded to business, they attempted to clear the House of strangers? He said, No. And being asked, Whether he remembered who spoke, whether it was a lord, or one of the servants? He said, He did not know, but thinks the cry was of more than one; and that if this enquiry had been made sooner, he should probably have recollected more than occurs to his memory now.

Then Mr. *Feilde*, another member, gave your Committee the following account: That he had attended the House of Lords but twice this session with the Speaker. Once on the first day, the other when Bills were passed by commission; that on one of those days, which he thinks, but is not certain, was the first day of the session, before he could get out of the House, and while many members continued in the House, there was a call to withdraw, or to clear the House; immediately upon which the door-keepers, or other officers of the House, called upon persons to withdraw, and cleared the House with a roughness, and without distinction of members from others, which he thought disrespectful to the members, who at that time had not an opportunity of getting out of the House; from whence the first call to clear the House, or to withdraw, proceeded he could not say, but thought, at that time, it came from within the bar; but in this, he said, he may be mistaken, and did not mean to insinuate that if it proceeded from the Lords, it was with knowledge that the members of the House of Commons were then in the House. And being asked by Mr. Speaker, Whether Mr. *Feilde* had informed him, that he thought the cry came from the Lords? He said, No; nor did he mean to make a complaint, but thought it his duty to mention it as a fact, in confirmation of what other members had said in the House. And being asked, Whether at the time when the call was to withdraw, there were many other members then in the House besides himself? He said, He believed there were several, but did not take particular notice, for he was endeavouring to get out himself as fast as he could.

Mr. *Howard*, another member, informed your Committee, that he had been twice at the Lords on passing of Bills this session; that he rather thinks it was the last time but one the King was there, that he observed, as soon as the Speaker was withdrawn, there was the same sort of cry as described by the last member, which cry appeared to him to be from the door-keepers, and not from above the bar; and that he does not recollect any distinction being made between strangers and members. And being asked, Whether the House was very full at that cry? He said, It was not so much crowded as the last day, but several members were in it; and that there was a very great crowd. Being

asked, Whether the officers were more insulting in clearing the House then, than at any time before? He said, He thinks they were more so than at former times.

Mr. *Coventry*, another member, said, That he was there at the same time Mr. Howard was, and was rudely turned out; and that he thinks the Speaker was hardly out of the door when the cry was. Being asked, Whether he could distinguish from whence the cry came? He said, It came from the officers; and that they treated the members as they did the mob. Being asked, If there was any rudeness in putting out the members? He said, It did appear rude and precipitate, because, as being then under orders, thought the members ought to have time given them to go out, without being incommoded by the crowd. Being asked, Whether they knew he was a member? He said, No; but thinks Mr. Howard did immediately turn round to the Usher of the Black Rod, and told him, the first time he saw him in the House of Commons he would use him in the same manner; and that the Black Rod was one who said, 'You must withdraw, you must go out.' Being asked, Whether at the time the officers treated him in the manner he had mentioned, he did not see a mixture of mob and members? He said, There always is; that he never was there without; that there is always more mob than members, some of whom are let in before the members come; and that most of the mob were gone out, and not many members left, when he, with other members, were turned out. Being asked, Whether he recollected at any other time the same rudeness to members as at that time? He said, He never remembers any thing of the kind before the last regulation of the House of Lords, (the regulation for excluding members.) Being asked, If he apprehended the officers knew he was a member? He said, He did not know; but thinks Mr. Howard spoke to the Usher of the Black Rod, so as to make him understand he was a member. Being asked, Whether, before the last excluding regulation took place, he was not usually for many years admitted as a known member of the House of Commons? He said, He always was; that he was very near the Speaker on going in; and that he saw many strangers there before the Speaker came. Being asked, If he had communicated to the Speaker the rude treatment he and the other members

received in the House of Lords? He said, he never mentioned it to any body.

Mr. *Ridley*, another member, said, that he was present when the Speaker went up the first time the King came to pass Bills; that as soon as the Speaker was retired, the door-keepers came to several people, crying out, 'withdraw,' in a very violent manner; that they took several persons by the arm, and pushed them out, making no distinction between members and strangers, and still the cry was, 'withdraw;' that there were about eight or ten members, besides himself, remaining; and he observing that the Lords were adjourned to unrobe, upon the door-keeper coming up to him in a violent manner, and saying, you must withdraw, and he, Mr. *Ridley*, having occasion to speak to a lord, did not chuse to go out, but said, he had a curiosity to see that fine place, as being a stranger; the door-keeper then replied, Stranger! Sir, I have very often seen you here from the House of Commons; upon which, as he saw the House was not resumed, he said, he would not go out then, but when the House was resumed he should know what to do; and that the last time the King was there, he saw the very same things happen after the Speaker had retired; that the House was very full of strangers before the Speaker came; that when he came a lane was made for him up to the bar, and after he was gone, the door-keeper came, in the same rude manner as before, saying, 'withdraw, withdraw.'

A motion was made, "That the Bills brought from the House of Lords, on Wednesday the 1st instant, be sent back to the Lords; and that their lordships be acquainted, that this House hath ordered the said Bills to be returned to their lordships, on account of their having been sent to this House by messengers not usually employed in bringing messages from the House of Lords to this House; and that a conference be desired with their lordships, on matters tending to preserve a good correspondence between the two Houses;"

And notice being taken, that the said motion contained a complicated question, and was grounded on two different and distinct parts of the said Report; the motion was, by consent of the House, divided into two questions, the first part ending with the words 'from the House of Lords to this House.'

And the question being put, "That the Bills brought from the House of Lords, on Wednesday the 1st day of this instant April, be sent back to the Lords; and that their lordships be acquainted, that this House hath ordered the said Bills to be returned to their lordships, on account of their having been sent to this House by messengers not usually employed in bringing messages from the House of Lords to this House;" the House divided. The Yeas went forth.

Tellers.

YEAS	{ Lord Folkestone - - - }	57
	{ Mr. T. Townshend, jun. }	
NOES	{ Mr. Charles Townshend }	107
	{ Mr. Cooper - - - }	

So it passed in the negative.

Mr. *Dyson* then moved, "That a Message be sent to the Lords, to acquaint them that this House, having received a Message from their lordships, on the 1st instant, which was brought by a master in chancery, and the clerk assistant of the House of Lords, and being desirous of preserving a good correspondence with their lordships, have sent this Message to acquaint their lordships, that this House doth take notice of this unusual method of sending messages to this House, and desire that the same may not hereafter be drawn into precedent;"

The Amendments following were severally proposed to be made to the question.

After the word 'and' and before the words 'being desirous' to insert the words 'that this House taking notice that the said Message was not brought by the usual messengers sent by their lordships to this House, have not proceeded upon the said Message, but' and to leave out from the words 'have sent this Message' to the end of the question, and to insert the words 'to their lordships, in hopes that their lordships will thereupon take such steps as may not afford any interruption to a good correspondence between the two Houses' instead thereof.

And the question being put, that the words 'that this House taking notice that the said Message was not brought by the usual messengers sent by their lordships to this House, have not proceeded upon the said Message, but' be inserted after the word 'and' and before the words 'being desirous;' the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. William Burke	} 55
	{ Mr. Montagu - -	
NOES	{ Mr. Onslow - - -	} 105
	{ Mr. Hanmer - - -	

So it passed in the negative.

Ordered, That a Message be sent to the Lords, to acquaint them, that this House having received a Message from their lordships, on Wednesday the 1st instant, which was brought by a master in chancery and the clerk assistant of the House of Lords; and being desirous of preserving a good correspondence with their lordships, have sent this Message, to acquaint their lordships, that this House doth take notice of this unusual method of sending messages to this House, and desire that the same may not hereafter be drawn into precedent."

Mr. Ongley and several other members carried up the said Message to the Lords, who returned the following Answer: "That the Lords ordered their Message, of the 1st of this month, to be carried to the House of Commons in the usual manner; and their lordships have found, upon enquiry, that one master in chancery being ill, their Message was carried by only one master in chancery and the clerk assistant of the House of Lords; and the Lords desire the Commons may be informed, that the Lords have nothing more at heart than to maintain a good correspondence between the two Houses, and do not mean to introduce any precedent contrary to the usage of parliament."

A motion was made, "That a conference be desired with the Lords, on matters tending to preserve a good correspondence between the two Houses;" the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Byng - - -	} 51
	{ Mr. Feilde - - -	
NOES	{ Lord Lisburne - -	} 117
	{ Lord Palmerston -	

So it passed in the negative.

Debate in the Commons on the Bill for the Relief of Protestant Dissenters.]*

* "The bringing in of this Bill gave a great alarm to the high church gentlemen, who, seeing the former petition, and the attempt upon the church Nullum Tempus claim, immediately succeeded by another attack upon the 39 Articles, began to imagine that some settled

April 3. Sir Henry Hoghton moved, "That leave be given to bring in a Bill for the further relief of his Majesty's Protestant subjects, dissenting from the Church of England." As this motion was considered by the opposers of the former Petition of a body of the clergy as an obstinate and specious continuation of that business, the debate upon it it was very warm, though short. Sir Henry accompanied his motion with a short speech, the purport of which was, that a divine and exclusive right belonged to man, as a free agent, to judge for himself in religious matters.

Sir Roger Newdigate stood up against the motion, and combated some of the arguments. He allowed, indeed, that he believed the motives, which urged the dissenters to pray for a more extensive toleration, were such only as were highly laudable, and consistent with the wishes of good men. He granted also, that their case demanded further relief; but lamented the necessity there was for refusing it, because a total exemption from subscription would involve the church in confusion, and throw open her doors to new absurdities and irregularities. He did not doubt that the dissenters had tender consciences, and he felt for them; but the churchmen had tender consciences too, and it was his duty to feel for them too; that these, (the churchmen) besides being much more numerous than the dissenters, were equally respectable; that they would certainly take the alarm, and, as a superior body, claim a prior regard from the legislature. The dissenters, he said, by their conduct, resembled the boy in the fable, who thrust his hand into the fig-jar, and, by grasping too many, was unable to pull it out again. It was thus with

design was formed, subversive of the established religion. They accordingly opposed it with great warmth; but found the general sense of the House strongly against them, and were surprized to see a considerable part of administration, and almost the whole of opposition, for once join in opinion, and both appear equally sanguine in the cause of religious liberty, and for extending the benefits of toleration. The motion was accordingly carried without a division, and the numbers that appeared against it, upon the second and third reading, were so small, as scarcely to merit observation. It was however productive of very considerable debates, as well in this part of its progress, as when it was afterwards carried up to the House of Lords, where it was finally rejected." Annual Register.

the dissenters: they had grasped too much; instead of an application for a total exemption from subscription, they ought to have requested a mitigation of the statutes now in force. Besides, he observed, the strict meaning of the Acts now unrepealed being either totally overlooked, with respect to the clergy, or at farthest but very little insisted on by the executive body, the proposed regulations were rendered totally unnecessary; for it was no hardship, either on the ministers or schoolmasters of the dissenting body, to subscribe the articles, to qualify them for commencing teachers, since such subscription by no means imposed an obligation to make them become teachers; that the proposed regulations would pave the way for the encrease of presbyterianism—in all ages the avowed and resolute foe of monarchical government; and that, for these reasons, though no man was a warmer friend of political and religious freedom, he must give his voice against it on the present occasion, for he saw and dreaded the consequences.

Mr. *Montague* observed, that he hoped to find a plea for the general principles of toleration unnecessary in the eighteenth century; that the argument adduced by the last gentleman for retaining subscription appeared to him absolute for taking it away, namely, the necessity that subjected government not to enforce the laws then unrepealed, for the severity of the penalties argued for their repeal; that the security of freemen was too sacred to be trusted to the discretion of judges; that however equitable this discretion might be found, still the dissenters were liable to prosecution through avariciousness or envy; that Dr. *Doddridge*, a learned and pious man, who kept an academy in a town, which he had once the honour to represent, was persecuted by an illiberal action of this nature; and that, if the prosecution had been successful, not only he, but the youth of his academy, would have been injured in a great degree. He added, that the charges brought against the presbyterians for their connection with the wars of the last centuries were not founded upon equity; that they had just reasons for arming themselves against a tyrannical king; and that, even supposing they had at that time been misled by prejudices, it was unfair to tax the children with the sins of the fathers.

Mr. *George Onslow* seconded these arguments. He said, that the present Act

of Toleration did not merit that title; that the penalties enjoined in it were equally rigid with some punishments of the Inquisition; and that, were they put in force, they would be equal to church persecution, which always increased, instead of reducing the object of it. So well convinced was he of the propriety of granting relief in the matter of subscription, that, in a similar case, he would not hesitate to give his vote for extending of toleration even to Jews and Papists, were they not by principle the determined foes of our constitution and country. Convinced therefore as he was, that the present application of the dissenters was founded solely upon liberty and conscience, he was for the motion.

Mr. *Constantine Phipps* urged, that a variety of opinions in religion was the support of the church, as the same in politics was the support of government; and that, as hardly any two persons were strictly of the same opinion in religious matters, he was for a free and universal toleration; that an obedience to the laws of the realm was a sufficient test of principles, for that the man, who was a dutiful subject, would never be an undutiful teacher; that the dissenters had always proved themselves a free, loyal, and dutiful body, and that, even when the second James had endeavoured to flatter them into an union with the Papists, they treated the monarch with the utmost contempt; and that such well-tryed virtue merited a reward. This question, he said, was materially different from that introduced formerly by part of the clergy; that those, as members of the established church, were bound by every tie of honour and duty to obey its rules and laws; but that the dissenters were only praying to be disengaged from ties, which were foreign to their principles and institutions.

Lord *Clare* also replied to some of the arguments advanced by sir Roger Newdigate; in particular, he made a comparison of England with France, in that instance where the penalties enacted by the religious statutes are suffered to lie dormant. He said, that if you interrogate a Frenchman concerning the cruelty of their laws against heretics, i. e. dissenters; he will desire you to consider, whether your own laws are not equally cruel. If you reply, that they are never enforced; nor are ours enforced, he will rejoin: while a man is a good subject, what has government to do with his faith? But as these indul-

gencies are merely discretionary, it is to be wished they were placed upon a more sure and determined footing.

Such were the arguments used in favour of this motion by the friends of it; and these were followed by speakers equally eloquent, and arguments equally powerful. But, as some of these had been used on a former occasion, and were now only repeated, we will pass them over.

Mr. Edmund Burke said:

Sir; as I have the pleasure of seeing all parties inclined to an agreement in the proposition now before the House, I think I cannot better perform my duty, than by endeavouring to cement the union as speedily as possible. Sir, there have been two objections made against granting the dissenters the desired toleration, or exemption from Subscription. First, such a step is represented as dangerous to the state; and, secondly, it is held to be ruinous to the church. If, then, I show, that it is in neither of these points to be dreaded, I hope this measure will be unanimously embraced, and will come with infinitely more weight and authority into the world.

First, then, it is not dangerous to the state. If it were, who can persuade himself, that those wise and active ministers, whose business it is to watch over the interests of the community, and who have given this House such weighty reasons for believing, that they never slumber nor sleep, but constantly attend the helm; who, I say, can persuade himself, that, if the state were in the least danger, they would now be absent? The noble lord (North) who possesses, and deserves so much the attention of the House, would certainly not have deserted his station, nor left the political vessel to be tossed and buffeted without a rudder, without a pilot, were the least storm to be apprehended. His eagle eyes would have foreseen and prevented the evil. But why do I say, that he would have watched over the public weal? He has not forgot his duty; he has appointed a deputy (Mr. George Onslow), who worthily supplies his place, and long, very long, may he enjoy his office: he is worthy of his employer. He now sits in Moses's chair, and officially expounds the law and the prophets. I hope, therefore, that the hon. gentleman, who opposed the motion, will allow, that the state can be in no jeopardy, as those, who have been found

more infallible than the Pope and his cardinals, have not been in the least alarmed.

Sir, part the first being settled, I hope to the satisfaction of the House, proceed we now to part the second, in which we will shew, that the church is not endangered by the motion. And here let me observe, that, as the law now stands, the dissenters are not obliged to sign but thirty-five articles and a half, which are not peculiar to the church of England. The distinctive doctrines of the Anglican church are contained in the articles, which they are not to sign. Hence the present mode of subscription enjoins the observance of the principles of the church of Geneva, and leaves out entirely what is peculiar to the church of England. For what purpose, then, is this absurd mode of subscription continued, which contributes rather to the propagation of presbyterianism than to the establishment of the national religion? The hon. gentleman who opposed the motion, says, that the church was a respectable body, and that their satisfaction ought to be studied as much as that of the Presbyterians. I own it; and it is for that reason I would abolish a subscription, which does the church more harm than good, as it only binds men to the observance of the tenets of Geneva, and exempts them from paying the least attention to the distinctive doctrines of the English church.

Sir, the opposer of the question is willing to grant them a toleration to a certain extent, that is, as far as their tenets correspond with those of the church of England. But, surely this is not sound logic; for the very principle of toleration is that you will tolerate, not those who agree with you in opinion, but those whose religious notions are totally different. For what merit is there, I beseech you, in tolerating your own doctrines? None at all. Christian charity consists in allowing others a latitude of opinion, in putting a restraint upon your own mind, and in not suffering the zeal of the Lord's house absolutely to eat you up. The dissenters do not desire to partake of the emoluments of the church. Their sole aim is to procure liberty of conscience. If you do not grant this indulgence, you in effect say, Gentlemen, you shall say grace in our way, but you shall not taste a morsel of our meat. Can such an absurd, such a partial institution, be deemed a toleration? It is impossible; and I therefore hope, that the House will be unanimous in

granting the request of the dissenters in its fullest extent.

These are the principal arguments of Mr. Burke's speech, of which sir George Savile testified his hearty approbation.

Sir *William Dolben* informed the House, that he could not conceive what the motion meant, unless it was to root out the Christian religion entirely from the nation; that the first of the articles taught us there was but one God, but he feared some of the supporters of this wicked motion said in their hearts there was no God.

This speech was answered only by a smile round the House; and the question being put, all the House except sir Roger Newdigate and sir William Dolben, were unanimous for the motion. A Bill was accordingly ordered in for that purpose.

April 14. Sir *H. Hoghton* moved the second reading of the Bill.

Sir *William Dolben* said, that though he had the highest respect as he ought, and as they deserved, for the gentlemen who originally moved and seconded this affair, yet he could not but give it all the opposition in his power, as he thought the contents of the Bill did not answer its title; that the Bill professed to give relief to such as dissented from the church of England, according to the original meaning of these words when the 39 articles were framed, that is, to such as differed from it in their opinion of ceremonies and forms, but agreed with it in the grand articles of religion; that the first dissenters admitted the divinity of Christ; that he apprehended many of the present dissenters denied it; that therefore they were now going to relieve not the dissenters against whom the penal laws so much complained of were framed, but a new body of men whom they, or at least the law, knew not of; that such an unlimited toleration as was now contended for, would introduce confusion and distraction into the state; that he was as strongly as any man for a reasonable toleration, but that this was extravagant; that, like St. John, who left it as a precept, "little children love one another," he approved of charity; but that, like the same apostle who coming to bathe himself, and finding there a heretic who denied the divinity of Christ, returned upon his steps, he would have no communication with such a heretic; that the dissenters had complained of no grievance, or brought no petition; that they were going to re-

dress grievances, of whose existence they had no proof; that they had not, as they ought, excepted against any particular articles; that the undefined and unlimited toleration now proposed would not exclude from among the dissenters, such heretics as he had mentioned, who acknowledged the Bible as the rule of their faith, and yet denied the divinity of Christ.

Sir *H. Hoghton* said, in answer to this, that the present Bill studiously avoided the mention of any doctrine, for fear of giving any offence, or of occasioning disputes.

Mr. *Montague* also said, that the story alluded to, of St. John's flying from the heretic so precipitately, was rather apocryphal.

Sir Roger Newdigate and sir William Bagot exerted themselves with great zeal on the contrary side; and were eloquent and plausible, but it appeared that sir Roger had not yet digested the insult with which his friend Dr. Nowell had lately been treated; for he introduced into his speech a very pathetic exclamation relative to a vote of thanks for his sermon being expunged from their Journals. Sir Roger also again laid hold of an opportunity of testifying his profound reverence for the memory of king Charles the 1st, whom he stiled 'the only canonized saint of the church of England;' which occasioned an universal laughter throughout the House; and Mr. Dyson having read an extract from a letter of Mr. Locke's to Limborch, in support of what he had advanced of the present Bill, sir Roger endeavoured to weaken the authority of Locke, by hinting his suspicions, that that great philosopher was probably a Presbyterian, and that his doctrine of toleration appeared to be the work of a speculative man, who knew but little of the world. Here

Mr. *Montague* interposed, and said, that Locke's doctrine of toleration, mentioned by sir Roger Newdigate as the work of a speculative man, was such as he would much more readily subscribe than any set of articles that he had ever read; that he was glad the Dissenters did not except against any doctrine, but proceeded upon the large and comprehensive plan of Mr. Locke, of being exempted from acknowledging any other rule of faith but the Scriptures.

Sir Roger Newdigate replied, that he entirely approved of Mr. Locke's letter on toleration, which he thought the most ex-

cellent piece of reasoning he had ever read; but that he thought it too pure a system to suit the depravity of man; that the religion of every country bore the colour and complexion of its civil government; that in a monarchy it was monarchical, and in a republic republican, and that he was for preserving our present establishment, and for preventing the Dissenters from giving it any shock, by being indulged with privileges superior to those of the church, especially as they were already on a much better footing in several respects, particularly in being empowered to elect their own ministers.

Sir *W. Meredith* made several observations on what fell from sir *R. Newdigate*, and said, that the cruelty and inefficacy of the penal laws were alone a sufficient argument for passing the Bill; that they had on their table the case of Mrs. Fenning, who, in pursuance of these laws, was in danger of losing all her property; that this single case was a sufficient confutation of the assertion, that it was not in the heart of man to put these penal laws in execution; that he would never cease till he procured the same liberty of conscience to the church as was now to be granted to the Dissenters; that it was said it was not just to impose the same restrictions on the Dissenters as on the churchmen, because the former did not enjoy, nor mean to enjoy the emoluments of the church; that thus they thought themselves justified in fettering the consciences of men, because they allowed them emoluments; that such men, as they thus invited into the church, were the very thieves and robbers that were driven out of the temple; that he hoped the same liberal spirit which now influenced the House, would operate in another session to the advantage of the church.

Sir *R. Newdigate* observed, in answer to this that the present Bill made no mention of the penal statutes, to the abolition of which he was not very averse; that the case of Mrs. Fenning, which was very hard, was that of a Papist, and that none had yet ever proposed to repeal the penal laws against that sect of Christians.

Mr. *Constantine Phipps* spoke very forcibly in defence of the Bill; and urged, that it was in the highest degree dishonourable to the church of England, to suppose that its foundations were so weak, that it could not be supported without obliging even the Dissenters to subscribe the articles.

Sir *H. Hoghton*, at the end of his speech, which closed the debate, read several extracts from bishop Warburton, in defence of toleration; and particularly the following: "If any good use can be made of what has been said, it will be chiefly promoted by those reverend men, who, in honour of the church which they serve, and in gratitude to the state by which they are protected, will make it their first care to support that most just of all public laws, the law of toleration: which, how long soever obstructed in its passage to us, and how late soever arrived among us, is certainly of divine original. Nor will such men ever venture to refine upon it (which will always be to weaken it) by idle distinctions between the letter and the spirit of the law. In a word, the church in which religious liberty is cordially entertained, and zealously supported, may be truly called Christian: for if the mark of the beast be persecution, as the sacred volumes decypher it, well may we put toleration as the seal of the living God."

Besides those gentlemen we have mentioned, sir George Savile, sir Joseph Mawbey, Mr. Burke, Mr. Cornwall, Mr. Sawbridge, &c. were strenuous supporters of the Bill.

The House divided on the motion for the second reading of the Bill. The Noes went forth.

Tellers.

YEAS	{	Mr. Rice - - - -	}	70
		Mr. Montagu - - - -		
NOES	{	Sir Roger Newdigate -	}	9
		Sir William Bagot - -		

So it was resolved in the affirmative. The Bill afterwards passed the Commons.

Debate in the Lords on the Bill for the Relief of Protestant Dissenters.] May 19. The Bill was read a second time.—The motion for committing the Bill was supported by lords Chatham and Lyttelton, the duke of Richmond, and earl of Shelburne; and opposed by lord Bruce, earl Gower, archbishop of York, and the bishops of Peterborough, Landaff, Oxford, and London.

The Earl of Chatham spoke very warmly and spiritedly in favour of the Bill, which he attempted to recommend and defend on the general principles of a liberal toleration. His lordship shewed as much oratory and fire as, perhaps, he ever did in his life. In replying to one of the bishops who had spoken a great deal of the dogmas

of foreign colleges, he said, there was a college of much greater antiquity, as well as veracity, which he was surprised he never heard so much as mentioned by any of his lordship's fraternity; and that was the college of the poor, humble, despised Fishermen, who pressed hard upon no man's conscience, yet supported the doctrine of Christianity both by their lives and conversations superior to all; but, my lords, probably I may affront your rank or learning, by applying to such simple, antiquated authorities; for I must confess there is a wide difference between the bishops of those times and the present.

The Duke of Richmond enforced its expediency in a speech that equally pleased and surprised his auditors, and which lasted upwards of an hour. But the principal speaker who distinguished himself in this debate was the bishop of Landaff, who attacked the principles of some living dissenting ministers, with an eloquence that astonished both his friends and opponents. He quoted a variety of passages from different publications, by Dr. Priestley, which equally excited the wonder and abhorrence of his hearers. Amongst others, lord Chatham interrupted him with the exclamations of "Monstrous! horrible! shocking!"

The Bishop of *London*, to whom the House listened with great attention and respect, said, that he had taken some pains to inform himself whether the Bill was promoted and patronized by the Dissenters in general; and that he had authority to declare, from the most respectable persons and ministers of that sect, who had waited upon him, that it was disagreeable to them, and that they did not wish it to pass. That he had been informed from the same respectable authority, that at a meeting lately of 90 persons, when it was proposed to return thanks to the committee for soliciting the Dissenters Bill which had passed the lower House, six were against it, twelve were for it, but far the greater part were silent, and said nothing one way or other.

The Earl of *Radnor* concluded the debate with declaring, that he was born, had lived, and hoped to die, a member of the church of England; and that he did not know any grievance that the Dissenters lay under since the present family come to the throne, any more than they did before, and therefore he thought there was no necessity for this Bill.

The House divided: against the Bill 73,

Proxies 29, Total 102. For the Bill 23, Proxies 6, Total 29. It was consequently rejected.

Upon the second reading of this Bill, the bishop of Bristol (Dr. Thomas Newton) intended to have made the following speech: (See his *Miscellaneous Works*, vol. 1.)

My lords; The Act of Toleration was one of the first fruits of the glorious Revolution. It may be considered as one of the corner stones of our constitution; and care ought to be taken how we remove, or even meddle with foundations. When the Act of Toleration passed, the generality of the Protestant dissenting ministers professed to agree with the church in points of doctrine, and to differ only in matters of discipline; so that being released from the three articles, and part of a fourth, relating to church government, they were willing and ready to subscribe to all the rest. But that part of the dissenting ministers (for, my lords, they are only a part of the dissenting ministers) who are the promoters of this Bill, profess to differ from us in doctrine, as well as in discipline, and declare that they cannot in conscience subscribe to several of the articles, because they apprehend them to be contrary to the sense of Scripture. If they had said, that they could not be proved from Scripture, or that they were not agreeable to Scripture; that would have been more than they could have made out by any fair argument: but to say they are contrary to Scripture, is a false and slanderous assertion, and what no one of them ever has proved, or can prove. It is to be wished, that they had specified those particular articles which they apprehend to be contrary to Scripture; but such general assertions, without the least offer of proof, deserve no kind of regard. All that they really prove is, that there is too much ground and reason for the general surmises and suspicions, that the promoters of this Bill are of I know not what religion; they are no longer Presbyterians, but some perhaps Anabaptists, some Independents, some Arians, some Socinians, and some even Deists; horrid things to hear of those who pretend to be ministers of the gospel; but more horrid if true.

No wonder that such men wish to be freed from all the restraints of law: but what need was there, at this time especially, in this general relaxation of all order and discipline, to desire to be released from a subscription, which few or none of

them have ever made? Easy and moderate as the terms of toleration are, yet scarce any of them have complied with them; scarce any of them have subscribed to the articles, as they themselves admit; scarce any of them have taken the oaths and made the declaration against popery at the quarter-sessions. And was there any reason for any jealousy of the superior powers? Who was likely to call upon them to do their duty? And why then interrupt the harmony that was growing between the church and dissenters? Why not rest contented with the general connivance, without troubling the legislature to justify their neglects and omissions, and to authorise their breaches of one law by the passing of another? They first break the law, and then, not content with impunity, must have a dispensation for so doing.

But it was terrible to have the sword hanging over their heads. They are for a free toleration, and full liberty of conscience. But if they are such friends to free toleration, and full liberty of conscience, why will they not allow it to others, as well as require it for themselves? We know very well what an intolerant spirit possessed the dissenters in the last century, while they had the power in their hands. We know it at this day, by their opposition to establishing of a bishop in America. And where is the reason, or justice, or equity, that they should expect the established church to grant the same indulgence to them, which they deny to the established church?

Liberty is indeed a glorious thing: but liberty in the church is now growing like liberty in the state. It is liberty run mad. It is licentiousness, and not true liberty. Lawless liberty is the curse of the land. Liberty and law must stand or fall together.

I profess myself, my lords, as hearty a friend to freedom of enquiry and liberty of conscience as any dissenter of them all. But liberty of thinking and judging is one thing, and liberty of public preaching is another. The one nothing ought, and indeed nothing can hinder or controul. Thought is free, but public preaching should be laid under some restraints and regulations. But it may be said, why not allow liberty of preaching, as well as liberty of printing? Because the liberty of the press is not attended with such dangerous consequences. Men are more easily inflamed by preaching than by

reading. Readers are commonly better judges than hearers. What is printed is known, and may also readily be answered: but men may preach more than they dare to print, and more easily infuse their poison, when there is no antidote at hand, to prevent the bad effects of it. There are laws, if they were but put into execution, to regulate the liberty of the press; and much more there should be laws to regulate the liberty of preaching. And no wise state would suffer it without some kind of security given that it shall not disturb the public peace. No wise state would allow a full toleration to any religion, without knowing in the least what that religion is.

Now what security do these men offer to give that their doctrines shall not be subversive of public peace? What declaration or confession do they propose to make of their faith and religion? Why, they will take the oaths and make the declaration, as required in the Act of Toleration: but as they have neglected these things for the time past, how can we be sure that they will observe them better for the time to come? Instead of subscription to the articles, they will also subscribe "a declaration of their believing that the Holy Scriptures of the Old and New Testament contain a revelation of the mind and will of God, and of their receiving them as the rule of their faith and practice." And is this all? Can any thing be conceived or expressed in lower and meaner terms than this? Is this a declaration becoming Protestant ministers? Would not any Papist, would not any Fanatic, would not any Heretic freely make the same declaration? This falls infinitely short of the Quakers' declaration, of their believing the doctrine of the blessed Trinity, and the divine inspiration of the holy Scriptures.

If they had offered, though they could not subscribe to the articles as articles of truth, yet to subscribe to them as articles of peace, their plea might have been admitted. Or if they had pointed out what articles they had real objections to, and would have subscribed to the rest, they might have been excused from subscribing to those articles, as the Anabaptists are from subscribing to that concerning infant baptism, as well as the other three and part of the fourth, in common with other dissenters. Or if they had proposed to make any declaration or confession of their faith and religion worthy of Protes-

tants, or even worthy of Christians, it might have been substituted in lieu of subscription; but this is really nothing at all. For all the different sects of Christians profess to derive their tenets from the Scriptures; and there is no sect even of half Christians that would not make at least this declaration. And how then can we judge of their tenets and principles? And will you, my lords, give a kind of establishment to you know not what, and to you know not whom? And if you should, would they remain contented with it? No, my lords, they would rise in their demands, and you would be pestered with applications from every quarter. There are other things besides the grave, that are always crying, 'Give, give,' and are never satisfied.

It is a matter, my lords, that concerns the state full as much as it does the church. There are some sectaries, who hold principles inconsistent with all civil government, and indeed with all civil society: and how do you know but some of these men may be of that sort? And will your lordships grant your license to any such teachers and preachers? Indeed there is nothing then that may not be publicly taught as it were by authority: and what an influence must it have, and how must it perplex and distract the minds of the people! There would be nothing then that can hinder the doctrines of Popery from being preached as freely as any other. There would be nothing then that can hinder the revival of all the fanaticism and enthusiasm, of all the heresies and blasphemies, which were broached in the last century, and terminated in the ruin of the constitution both in church and state.

There is then no plea nor pretence for this Bill; for I do not find that it would be agreeable to the generality of Protestant dissenters. I said before, that they were only a part of the dissenting ministers, who were the promoters of this Bill. For I have been informed, and believe my information may be depended upon, that it is a measure in which they are far from being all agreed, that it is carried on chiefly by some ministers in and about London, without the concurrence and consent of many in the country, and indeed without the approbation of the graver part of dissenters, the presbyterians especially. It is therefore improperly entitled a Bill for the relief of Protestant dissenters. It is more justly and truly a Bill for the public preaching of Arianism, So-

cinianism, any schism, any heresy, that any fanatic or incendiary may advance.

Such is the nature of this Bill, bad in itself, worse in its consequences. Let what will be said, it is contrary to all the maxims of sound and good policy, for any government to grant to any men or set of men the free toleration and public profession of their religion, without their first declaring what their religion is, so that it may be known to be consistent with the safety of the state. But perhaps their principles are so very different that they cannot, or, perhaps they are of such a nature that they really dare not, declare them. I am afraid, my lords, and there is too great reason to fear, that the true secret, the true end and design of this Bill, as well as of the petition from some of the clergy against subscription, is, that being no longer under any restraint of the articles, they may more freely preach their Socinian doctrines, deny the ever blessed Trinity, assert Jesus Christ to be little more than a mere man, and take away all the merits of his sacrifice and atonement. In the Act of Toleration itself there is a clause, that the benefits of that Act shall not extend to "any person that shall deny in his preaching or writing the doctrine of the blessed Trinity, as it is declared in the articles of religion." There is another Act of the 9, 10 Will. 3, for the more effectual suppressing of blasphemy and profaneness, which subjects to the severest penalties "any person or persons who shall by writing, printing, teaching or advised speaking, deny any one of the persons in the Holy Trinity to be God." And God forbid, my lords, that this House should ever, contrary to so many acts of parliament, contrary to the whole tenor of the Gospel, give their sanction and authority to men, who not privily, as the Apostle says, but publicly bring in damnable heresies, even denying the Lord that bought them!

Motion for the Repeal of the Marriage Act.] April 7. Mr. Charles Fox moved, That leave be given to bring in a Bill to amend the Act of the 26th of George the 2nd, entitled, 'An Act for the better preventing of Clandestine Marriages.' He explained, that in the Bill he should bring in, he should repeal all that part of the Act which related to the prevention of clandestine marriages, to the making void such marriages, but would preserve the establishing the notoriety of such marriages.

It was urged in favour of the motion, that the Marriage Act had been planned in favour of the aristocratical power of the nation; that by throwing a bar in the way of marriage, it prevented, it kept the heiresses in a family at the disposal of their parents and guardians; that this bar, though intended to operate only on the rich, had been more pernicious to the poorer part of mankind, and especially to the sailors, who could not always reside so long as the Act required to make a lawful marriage; that it was unjust to create a nullity in marriage, for an act which was not in the power of the parties so marrying.

On the contrary it was urged, that the infamous manner in which Fleet parsons performed the ceremony, and the difficulties that arose from proving such marriages, had made it highly necessary for parliament to apply a remedy; that this remedy had had several very good effects; that the great had found a way to avoid the difficulties, by going to Scotland; that it was far from being a clear fact, that it had prevented marriages among the lower rank of people; that it had given parents a power to watch over the tender years of their children, at an age when they might not be supposed so capable of judiciously determining in so weighty a matter as their future well being.

The House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Charles Fox - - }	62
	{ Mr. Byng - - - }	
NOES	{ Lord Lisburne - - }	61
	{ Doctor Burrell - - }	

So it was resolved in the affirmative; and Mr. Fox, colonel Burgoyne, and sir W. Meredith were ordered to prepare and bring in the Bill.

May 19. The Report of the Marriage Bill was brought up, and the Amendments of the Committee agreed to. On the motion that the Bill be engrossed, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Charles Fox - - }	34
	{ Mr. Aubrey - - - }	
NOES	{ Mr. Ongley - - - }	92
	{ Mr. Cooper - - - }	

So it passed in the negative; and the Bill was accordingly lost.

Debate in the Commons on the State of the Criminal Laws inasmuch as they relate to Capital Offences.] April 14. Sir Charles Bunbury reported from the Committee of the whole House, to whom it was referred to consider of the Report, which was made from the Committee, who were appointed to consider of so much of the Criminal Laws as relate to Capital Offences, the following Resolutions:

1. "That it is the opinion of this committee, That so much of an Act, made in the 7th of Henry the 7th, entituled, 'The Penalty of a captain or soldier, retained to serve the king in his intended wars, not doing their duty,' as subjects offenders to death, be repealed.

2. "That so much of an Act, made in the 1st and 2nd of Philip and Mary, entituled 'An Act against certain persons, calling themselves Egyptians,' as subjects offenders to death, be repealed.

3. "That so much of an Act, made in the 5th of queen Elizabeth, entituled, 'An Act for further punishment of vagabonds, calling themselves Egyptians,' as subjects offenders to death, be repealed.

4. "That so much of an Act, made in the 35th of queen Elizabeth, entituled, 'An Act to retain her majesty's subjects in their due obedience,' as subjects offenders to death, be repealed.

5. "That an Act, made in the 9th year of queen Anne, entituled, 'An Act to make an attempt on the life of a privy counsellor, in the execution of his office, to be felony without benefit of clergy,' be repealed.

6. "That so much of an Act, made in the 9th year of George the 2nd, entituled, 'An Act for building a bridge across the river Thames, from New-Palace-yard, in the city of Westminster, to the opposite shore, in the county of Surrey,' as subjects the offenders to death, be repealed."

April 19. Mr. Harbord observed, that there were now in being several penal laws, which were only temporary, and of which the original causes had long since ceased to exist; that there were others, which enacted punishments entirely inadequate to the crimes; that the former hung as terrors over the heads of the innocent, as spite, malevolence, or wantonness, might at pleasure put them still in force, and the latter were attended with numerous inconveniences; that,

when enforced, they were a grievance, and, if not enforced, exposed our magistrates and judges to the charge of dispensing with law, and disregarding their oath, which enjoined a strict observance of the law; that hence many criminals escaped the punishments due to their crimes, the magistrates fluctuating between the fear of the imputation of cruelty or of perjury; that the law in general became on these accounts ridiculous, and by becoming the object of disgust, rather than of veneration, lost its true and necessary efficacy; that punishment was rendered uncertain, and that this uncertainty of punishment emboldened men in the commission of crimes; that, therefore, it was highly necessary, for the well-being and interest of the state, to repeal obsolete and useless statutes, and to amend those, which enjoined punishments inadequate to the crimes; that the committee had, in pursuance of this idea, divided the object of the enquiry recommended to them by the House into two branches, and that they had now brought in their Report upon the State of the Penal Laws, which included one of the two branches.

The Resolutions of the committee were now read severally, and sir Charles Bunbury, who sat in the chair, put the questions. The first two related to the Acts, which rendered it capital to be one of the people calling themselves Egyptians, vulgarly called Gypsies. On this Mr. Harbord observed, that from whatever circumstances these severe laws had originated, they were not founded on the principles of common justice, as it was not the name but the conduct of a man that rendered him criminal or not; that, if these people called Egyptians, were guilty of any breach of the law, the same regular procedure lay open for punishing them, as for punishing other delinquents; and that, as law ought to be general, and not partial or circumscribed, he moved for the repeal of the two Acts in question.

Mr. Ongley said, he thought it his duty to rise on this occasion to inform the House, that in a certain part of Kent there was an established body of Egyptians, who were frequently accused of committing great enormities, but could not be brought to condign punishment, because the obscure and mystical language, which prevailed among them, made it frequently impossible to procure evidence, or arraign them more than if they were dumb; and that lately an offender of this

[VOL. XVII.]

body had escaped, because he could neither understand nor be understood.

Mr. *Rose Fuller* said, that to his knowledge the man had escaped only, because no proof of guilt could be produced against him, and that he hoped the gentleman would not have even a gypsy hanged upon suspicion. The question for the repeal was carried without a division.

The second Resolution moved for was, that the Act which made desertion in officers and soldiers from his Majesty's forces capital should be repealed. It was argued by Mr. Harbord, that the provisions made in the annual Mutiny Act, for offences of this kind, rendered the Act in question entirely useless and unnecessary. This Resolution was therefore agreed to without a division.

The next Resolution moved for was, that the Act, which deprived of the benefit of clergy those guilty of violently carrying away women with an intention to force them into marriage with the ravisher, should be repealed. The debates upon this Resolution were very spirited. Mr. Harbord, Mr. Phipps, Mr. Fox, and others, spoke for it. It was urged, that it was frequently difficult to determine, whether a lady was carried away by her consent or not; that modesty, delicacy, and shamefacedness, often made the fair sex speak a language very opposite to their real sentiments; that an exasperated father or guardian would take hold of these equivocal expressions, and bring a man to the gallows, though his wife testified that she went off voluntarily, because being his wife, she could no longer be a legal witness; that the ladies were already sufficiently guarded from violence, by the punishments inflicted upon rapes; that the law, as it now stood, was too general, as it condemned to a capital punishment, even though the fortune of the person carried off did not amount to a shilling; that the law was evidently calculated in its origin for preserving property, and persons of property; that no person in his senses would run such a hazard of his life but for the sake of property, and yet the Act absurdly provided for the security of what could not reasonably be called property; that in a civilized and well-polished country such as England, the fair sex were sufficiently guarded by the laws, which were common to them with the men; that in Ireland, indeed, such a regulation might be necessary; that the Act, as it was worded, made the principal and accessory equally guilty;

[2 G]

that in this there was no equity or just proportion of the punishment to the guilt; and that for these reasons the Act ought to be repealed.

It was answered to these arguments by Mr. Burke, Mr. Ongley, and others, that no crime could be more atrocious than a rape of this sort; that it was even worse in its consequences to the aggrieved woman than murder, as it inseparably connected her for life with the person whom perhaps she abhorred; that, if she was even to escape without passing through the ceremony of marriage, her reputation would be stained through the suspicions of the world; that her family would be disgraced, her peace of mind destroyed, and her prospects in life blasted: that this practice of violently forcing away women was formerly common in England: that the Act, which allowed such delinquents their benefit of clergy, was found insufficient; that therefore another Act, taking away that benefit, was passed; that however civilized we might be, however strict our police, there were examples of violence offered both to men and women; that a lady, who resided not far from that House, had been carried away to a mad-house, and could not be traced for some months by her friends; that she was at last discovered by mere accident, by a passenger's observing her thrust her hands through the grates of a back window, and waving her hand.

Mr. *Henry Cavendish* said, that a young lady had been forced away, and thrown across a horse, with her head and feet tied under the belly of the animal, while the blood rushed out of her mouth, nose, ears, and eyes, by the pressure upon her stomach and lungs.

Mr. *Fox* observed, that Mr. Cavendish had forgot to inform the House, that the fact which he had related happened in Ireland; and that they were not making laws for Ireland but for England; not for a barbarous, but for a civilized country.

This motion, however, passed in the negative.

The next resolution moved was the repeal of the Act passed in the reign of James I, for the more easily bringing to justice women that are guilty of murdering their bastard children. There were but few arguments adduced in support of this motion. In opposition to these, it was observed by Mr. Dyson, Mr. Fuller, and others, that this law had been more than once considered by the parliament that

passed it; that that parliament was highly and justly esteemed; that they made it first temporary; that after three amendments they rendered it at last perpetual; that these circumstances were at least presumptions in its favour; that the proof of the crime intended to be provided against by this law was very difficult; that the Act was solely calculated for rendering that proof more easy; that though the Act rendered the concealment of the birth of a bastard child a capital crime, it was founded upon a very good principle; that it might justly be compared to the case of a man possessed of a poison, so fatal in its nature, so secret in its operation, that no human prudence could guard against its effects; that, if such a subtle poison existed, it would be absurdity in the legislature to make the very possession of it a capital crime; that the practice of destroying children of any kind was destructive to population, and therefore to the community; that it was consequently the part of the legislature to make every possible provision against so dangerous an evil; that the same law obtained in Denmark, Sweden, and France; that it had been hitherto attended with advantages, which entirely over-balanced its disadvantages; that the judges seldom or never put it rigorously in force, but used a discreet latitude.

These arguments were answered by Mr. Burke, Mr. Fox, Mr. Harbord, and sir W. Meredith. They said, that in the case of women having bastard children, the common statute laws were inconsistent; that the common law subjected to a fine, to a month's imprisonment, and flagellation; that this institution necessarily rendered the having of a bastard child infamous; that the dread of infamy necessarily caused concealment; that the statute law, in opposition to all this, made concealment capital; that every mother, who had not at least one witness to prove, that her child, if it was dead, was born dead, or died naturally, must be hanged; that nothing could be more unjust, or inconsistent with the principles of all law, than first to force a woman through modesty to concealment, and then to hang her for that concealment; that it was infinitely better that ten guilty persons should escape, than one innocent person should suffer; that this law, on the contrary, asserted it to be better, that ten innocent persons should be hanged, than one guilty person should escape; that as to the com-

parison of the subtle poison, it was not applicable to the present case; that a law, rendering the possession of such a poison capital, was not defensible, except it could be proved impossible that the possessor should have it for any good purpose; that this condition was wanting in the present case; that the concealment of the birth of a bastard might proceed from the best causes, from real modesty and virtue; that nothing could more strongly prove the absurdity and inexpediency of the law, than the impossibility of putting it in execution, under which the judges found themselves; that laws were made to be executed, not dispensed with; that the example of Denmark and France, despotic countries, ought to be no model for us; that this observation only proved, that the law of France ought not to be that of England; that the parliament which made this law was not infallible; that, while all due praise was allowed to legitimate children, it was not just to give a squeeze in the neck to bastards; and that humanity and justice pleaded strongly for the alteration contended for.

The motion passed in the negative.

The next Resolution was, that the Act, called the Coventry Act, which makes an attempt upon the life of a privy-counsellor high-treason, should be repealed.

This was agreed to.

Debate in the Commons on Colonel Burgoyne's Motion for a Select Committee on East India Affairs.] April 13.*

Colonel Burgoyne rose and said:

Mr. Speaker; I rise in consequence of the notice I gave the House to make a

* "On the 13th of April, a motion was made for a select committee of 31 members, to enquire into the nature and state of the East India Company, and of the affairs in the East Indies. The necessity of such an enquiry was strongly urged from a variety of considerations, among which were the following: the present precarious situation of affairs in India; the late distresses of the natives, and the depopulation of the country; the oppressive and arbitrary conduct of the company's servants; the great decrease of the net revenues in Bengal, from various mismanagements, as well as enormous and unnecessary expences; the immense consequence to this nation of preserving and well governing those countries; and that this could only be done, by making a full enquiry into their nature and state, and then establishing a regular and permanent form of justice and government.

motion of as serious importance as I believe ever came under your consideration to the interest and the honour of the nation: to the interest of it, inasmuch as the influx of wealth from India makes a vital part of our existence; to the honour of it, inasmuch as the most atrocious abuses that ever stained the name of civil government called for redress.

For the substance of this motion I shall make no apology. I believe it to be reasonable, I know it to be parliamentary. If any excuse is necessary for bringing it so late in the session, it is due from others, to whose situations, had they thought it expedient, it more naturally fell to take the lead. For my insufficiency to treat it as it deserves, to state this great subject with that arrangement of matter, and that propriety of argument and inference which would best justify the undertaking, I require more apology than words can express. For the patience of the House under these inabilities I shall want more than their candour, I shall want their favour, their indulgence, I might almost say their prejudice.

As the first step, and to remove at least any unfavourable impressions that may be conceived of me, I shall beg leave to state to the House the motives and principles upon which I act.

At the opening of the session, I heard with satisfaction, and with gratitude, the attention of parliament directed from the throne to this great object. As the session advanced I came every day to the House with expectation of seeing some data established, some premises laid for framing a great extensive political arrangement for India, coinciding, and harmonising as far

"Though the necessity of some enquiry and regulation was evident, many objected to the beginning of such an enquiry so late in the session; summer was already appearing, and its magnitude was such, and the difficulties attending it were so great, that it was evident the twentieth part of it could not be gone through during the sitting of parliament. Many objected to the mode of enquiry by a select committee; and though the gentleman who made the motion was unconnected with administration, it was known that the minister would have the virtual nomination of the members who composed the committee. It was besides urged, that the select committee was not accountable for its conduct; that an enquiry, therefore, by the board of trade, or privy council, would be preferable, as they are amenable to justice; and that as the proceedings of such committees often are secret, and never

as might be, with the principles and spirit of this constitution, dispensing the blessings of well regulated government in those remote regions, and wealth and prosperity in Great Britain. I never conceived it possible that parliament could be called upon by any men whatever, to apply a remedy without any information of the disease. To pass an act upon divination. To give upon trust a vote of justice and regulation to the India directors, as we give a vote of credit to the crown, leaving them the judges of the exigency and the application.

It would be disorderly to enter now into a discussion, or to give a pre-judgment upon the Bill which is to be presented in the course of this day; but I will say, that any Bill calculated upon the present narrow and rotten system of Indian government must be probably a destructive measure, and at best a mere temporary expedient. A poor, paltry, wretched palliative.

"It will but skin and film the ulcerous part,
While foul corruption mining all beneath
Infects unseen."

Therefore, Sir, when I heard notice given of bringing in this Bill and nothing else proposed, I considered the proceeding with astonishment, I listened to the comments that were made upon it in public, and applied to all quarters of the House, with indignation. Sir, I do not believe those comments were well founded; but I am ready to confess, that I think a dread of labour, a passive submission to difficulties, a spiritless acquiescence under evils, that we all know and that we all feel, are too much the characteristics and the reproaches of the times. Supineness upon this occasion will confirm those disgraceful sentiments in the opinion of all Eu-

entirely published, they are in no fear of public censure, and are thereby free from that controul, to which the whole House is liable, all its transactions being quickly known to the world. Besides it was urged, that no plan had been mentioned; so that the House, which was about to vote this very delicate enquiry, could not judge to what objects it was directed, or what ends it proposed to compass.

"Notwithstanding these objections, the motion for a select committee was carried without a division, and 31 members were accordingly chosen by ballot. The subject of their inquiry was so various, and of so great an extent, that they were obliged to apply for leave to continue their sittings during the summer." *Annual Register.*

rope. We shall not only be degraded as politicians but as men. I do not assume more feeling than others, but in considering the numberless circumstances, too apparent I fear to the House, that disqualify me for stepping forward, I feel one qualification to encourage me; I stand separate and clear from every concern and interest in person and property that could be supposed to warp the mind from the pursuit of the great object. I think it incumbent upon me in this stage of the business to explain myself to the House upon this point, in the clearest and most strenuous terms, and I pledge my veracity, my duty to the House, my fidelity to my country, every claim of honest fame, every sentiment that in every man's mind can constitute his idea of the term honour, that I act in this motion unconnected with any man whatever, unconcerned in every interest, unintentional of every purpose that might arise from it, other than a fair, a free, a direct, an impartial, a temperate, but an effectual enquiry; to present to parliament a comprehensive view of the existence and extent of the evils under India government; and thereby to enable them in their deliberate wisdom to apply an effectual remedy. I have dwelt upon this subject not only for my own sake, but for the success of the motion; for if I can give to my conduct the fair mark and stamp of sincerity, I shall remove at least that coldness and backwardness towards the motion that might arise from a suspicion of the mover.

Having cleared my ground thus far, I can proceed with more confidence to explain my purposes. I mean to move an enquiry into the nature, state, and condition of the India company and of the British affairs in India. By the first part of the motion I mean to give powers to a committee to enquire into the constitution of the Company, into the purposes for which it was framed, and the powers with which it was invested; I would then proceed to the management of those purposes and powers, see where there have been deviations, where there have been abuses, where the evils have unavoidably arisen from the latent errors in the constitution, where they have flowed from the casual misconduct of servants; and the enquiry will be thus naturally brought by the last part of the motion to a view of the present disorders, civil, military, moral and political, that chaos where every element and principle of government, and char-

ters, and firmauns, and the rights of conquests, and the rights of subjects, and the different functions and interests of merchants, and statesmen, and lawyers, and kings, are huddled together into one promiscuous tumult and confusion natural to the jarring operations of powers the most discordant and incompatible. To sift and examine these several materials, many of them excellent in themselves, and dangerous only by being confounded, will be the only means to enable the controuling and creative power of legislature, to new model and arrange them, and to give them for the future permanent regulation and direction to their proper ends.

It would be needless and unfair to enter into a further display of the apparent state of the Company at present. Clouds and darkness rest upon some parts of it; upon others, there is too much light.

Gentlemen will be ready to ask me, do I mean hostility to the Company; I disclaim all idea of hostility. I mean by investigation of facts to discover the common danger, and the common interest of the Company and the nation. To hold up the mirror of truth to the Company, wherein they may see themselves and their affairs as they are, and judge in concert also with the nation, what measures of reformation will best enable them to fulfil the trust reposed in them; for I hold every trading company, and that of India in particular, to be trustees for the state acting upon terms beneficial to themselves.

As to the servants, I scorn the thought of proceeding upon a vindictive principle towards any of them. I believe many of them to be men of integrity, others to have been led astray by such sorts of temptation as human nature cannot resist. The greater part of the evils will be found to be deeply rooted in the constitution, which is framed to excite and give play to the vicious passions of men. I would not at the same time check my enquiry, for fear of stumbling upon a criminal—should such crimes appear as would make it a duty in parliament to take notice of them, chastisement will be justice, not hostility. I only mean that chastisement is not the object, or end of my intention; when means can be found to make the offence impracticable for the future, the example of the offender is unnecessary: therefore, Sir, let errors, or let crimes, if such there are, sleep, where they can do so without infringement of our duty—with my con-

sent let them sleep for ever—buried beyond the search of human eye, and overshadowed with the trophies of public services, or of private virtues.

But, Sir, I shall perhaps be told that the object and end of my enquiry is to throw the whole affairs of the Company into the hands of the crown—from which the death-blow to the constitution is most to be apprehended—I have no such purpose—If legislature has not powers and wisdom, so to model and regulate the sovereignty of the state in India, or so to delegate its powers as to prevent the influence of the crown in England, let it never be attempted. I will join issue with the gentleman, who, upon a former occasion, asserted that India and Great Britain had better be swallowed up in the sea, than liberty be endangered by any exercise of undue weight given to the crown, that might make it preponderate over the other branches of the state—Though a servant of the crown, I am not less a servant of the public; it is my confidence, and my happiness, that I serve a sovereign to whom I shall most effectually recommend myself by services to the public; but had it been otherwise, I trust I should have been found to bear a heart devoted to this constitution, and capable of making any sacrifice to support it. I scorn therefore the idea of acting a part upon any undue principle—let resolutions grow out of facts; let remedy spring from resolutions—I only contend, that if by some means sovereignty and law are not separated from trade, the words of the honourable gentleman, to whom I alluded before, will be a prophecy, and India and Great Britain will be sunk and overwhelmed, never to rise again—but charters, Sir, I shall be told are sacred things—they are so, and to touch them with the hand of the crown, or any other single branch of the legislature, would be sacrilege. Charters are sacred—so are crowns; so is yet more sacred the religion of the country; but when by a long series of abuses, the one is degenerated from her first beauty and simplicity, to the grossest bigotry and superstition; when the other, by a course of corruption, is perverted from the only principle upon which free government can exist, the good of the people, has any wise legislature, has this legislature hesitated to apply a remedy?—we sit here at this hour in the full enjoyment of our civil and religious liberties, happy examples of the powers, and of the rectitude of our an-

cestors in reformation and revolution. Upon this principle therefore, and upon this alone, that an unprecedented concurrence of circumstances has produced an unprecedented exigency, would I apply the doctrine of the Reformation, and the Revolution, to the India company's charters, and I would blend that doctrine with every consideration of equity and compensation, to satisfy the interest of the parties concerned, while it applied to the common interest and common salvation of India and Great Britain.

Need I urge any further excitements? The fate of a great portion of the globe, the fate of great states in which your own is involved, the distresses of fifteen millions of people, the rights of humanity are involved in this question.—Good God! what a call—the native of Indostan, born a slave—his neck bent from the very cradle to the yoke—by birth, by education, by climate, by religion, a patient, submissive, willing subject to eastern despotism, first begins to feel, first shakes his chains, for the first time complains under the pre-eminence of British tyranny.

It only remains for me to state the sort of committee for which I wish. A committee of the whole House, with the business of the session which remains unfinished, could sit but seldom, and at this late season must be ineffectual.

A select committee, I confess, has generally been the committee of the minister; lists of names conveyed from the treasury have often had the fortune to be adopted by the majority. Sir, I have not proposed this idea without thinking of that objection, but I do not believe it is intended to check this enquiry by such means—I have a further confidence, I do not believe this would succeed if they were tried. I shall therefore, Sir, propose a committee of thirty-one, with a proportionable quorum to sit in the holidays; and should means be found to continue their operations during the summer, I do not believe there is a member who could be called to that committee, who would not forego all private avocations or conveniences for prosecuting that great essential public duty. I therefore move, “That a Committee be appointed to enquire into the nature, state, and condition of the East India company, and of the British affairs in India.”

Sir *William Meredith* seconded the motion. He urged the necessity for such an enquiry, as millions of people were under

the greatest distress. He related a story that happened in the Roman senate, where a great man brought home with him 300,000*l.*, one hundred thousand of which he was satisfied with for himself, another hundred thousand he gave to bribe the senate, and the third hundred thousand among the dumb votes: on which he observed, that he was afraid the Roman story might be applicable, in a certain degree, to some folks in Britain.

Mr. *Thomas Townshend* spoke strongly against the enquiry being made by a select committee. I agree with you, (said he) to admit the propriety and even necessity of an enquiry: we differ only in the mode. A select committee is not accountable for its conduct. An enquiry, therefore, by the board of trade, or privy council, would be preferable, as they are amenable to justice. Consider who are the persons most likely to compose this committee: men devoted to the ministry, men picked out of the House to serve a particular purpose. Is not such a small number of such persons more likely to be influenced by the culprits, by the nabobs, than the whole House? The ministry, it is true, can carry any question in the House as well as in the committee; but what then? The proceedings of the committee are secret, and never published; at least, nothing but the general resolutions are published: hence it will be in no fear of public censure; whereas the transactions of the House are soon known to the world. In the House, we have the chance of a controul from some members of the opposition, and from the public in general: in the committee, we have no chance of a controul. The idea of a committee seems therefore absurd.—He added, that he thought they should have had this enquiry brought in by administration, as there was something alluding to it in the King's Speech; but that three months were now elapsed and no notice had been taken of it, excepting by an hon. gentleman independent of administration.

Lord *North* said, he was glad to find the affairs of the East Indies taken up by a gentleman unconnected with administration; that a Bill had been brought in by one of the directors, which he thought was much more proper, than if brought in by administration; but that he certainly should be for making the enquiry by a select committee, and should have been for it the first day of the session, as he always thought it the most proper mode.

Lord Irnham, colonel Luttrell, Mr. Dowdeswell, and Mr. Cornwall, objected to the enquiry being made by a select committee, saying, that they might as well have no enquiry at all; for that the select committee never came in their enquiries to any thing; and, therefore, that the appointment of one tended only to deceive the people, and would be ineffectual. Sir George Colebrooke said, that, as one of the directors, he could not but vote for an enquiry.

Colonel *Barré* said, an enquiry ought to be made, as more cruelties had been practised in that country than even in Mexico: but he condemned administration for not bringing on the enquiry before: the noble lord told us (said he) that, in the beginning of the session, he was in confusion; confusion, in the middle too we are in and in confusion we shall end; but, however, as I have always been for an enquiry, I am glad to accept this rather than none. As to the Bill proposed to be brought in for the better regulation of affairs in the east, I must observe that it will give little more relief to that large wound, which I can scarcely find words to describe, than a bit of ladies' sticking-plaister.

Mr. *Dempster* objected greatly to the enquiry by the select committee, saying he was sure it would end in nothing; that he remembered a few of those committees, but never found they came to any thing decisive; and, therefore, that a committee of the whole House would be the most proper.

Mr. *Edmund Burke* spoke warmly against making any enquiry. When discretionary power (said he) is lodged in the hands of any man, or class of men, experience proves, that it will always be abused. This has been the case with the East India Company. That charter, which was well enough calculated for the purposes of a factory, becomes totally insufficient upon the acquisition of extensive territories. Hence unlimited authority fell necessarily into the hands of their governors. The directors, attentive to the extension of their trade, had not time, nor perhaps capacity, to make general regulations sufficient for the good government of so great an empire: and, had they been possessed of both these requisites, yet they wanted the power to exert them. Else why have they now applied for a new charter? The thing speaks for itself. They could only act within their charter,

and send to their governors directions, and directions too that were not binding in law, no competent authority having been delegated to them by the legislature. Does it not follow from this, that they were obliged to leave their governors a discretionary power? But how was the governor to keep in awe the Company's servants, who knew that he did not derive his authority from law, and that they could not be punished for disobedience beyond the ditch of Calcutta? In order to preserve some kind of subordination, he was forced occasionally to act the despot, and to terrify the refractory by the arm of power or violence.

This, Sir, I believe, you will find to be the genuine source of that arbitrary conduct charged upon the late governors in Bengal. Where no laws exist, men must be arbitrary; and very necessary acts of government will often be, in such case, represented by the interested and malevolent as instances of wanton oppression. Suppose some examples of real tyranny to have occurred, does it thence follow, that the governors were culpable? Is it not possible, that they were misinformed? In such a multiplicity of affairs, and in a government without laws, some enormities must have been committed. But who are the blameable persons? Not the Company, nor the Company's servants, who have not done what experience tells us is above the reach of humanity, and what they had not legal right to do; but those who did not, upon the acquisition of such vast territories, compose for their use a comprehensive and well-digested code of laws, for the rule of every man's conduct. Had the ministry, upon a former occasion, adopted this plan, as they were advised, we should not now be debating this point, nor should we have heard that the net revenues of Bengal are sunk to less than 200,000*l*.

In fact, Sir, administration is, in this case, the only culprit. The East India Company is not punishable for not performing what no body of men in their circumstances ever did or will perform. It is the men who are at the helm of affairs, and who neglected, or wanted capacity and inclination to make the proper arrangements, that ought to be the objects of public and parliamentary vengeance. They would, as all former ministers have done, on the like occasions, make the Company and its servants, their scape-goats; but it is to be hoped, that we have

more sagacity than to suffer them to sacrifice a Byng or two to their own security. Through the mismanagement of those who sit at the helm of affairs, the evil has spread too widely to be probed to the bottom. A general amnesty or act of oblivion for what is past will be the most rational method of proceeding; as in a civil war, where a whole nation is engaged on either side, I would have mutual forgiveness take place. Exact retribution for every irregularity would be the height of folly; it would only make the public wounds fester and rankle to an extreme.

Let us, Sir, consider that, if the Company is not without demerit, it has also merit to plead. To whom do we owe the million and a half which the East India trade annually brings into the Exchequer, but to the men who are now accused? Let us weigh their virtues and their vices in opposite scales, and we shall find that their affairs only deserve regulation, and not themselves punishment. The authority of the Company I would not have diminished in India by any severe animadversion. Let the people of Bengal be not taught to despise them, by finding their authority limited and circumscribed. It is enough that we provide for the good government of that country for the future. When they have so widely extended our empire and commerce, when they have so greatly augmented our naval power, as to have a fleet of merchantmen equal to the royal navy of Great Britain, let us not check their growth by sinking them in the estimation of foreigners, but cherish and foster them as our own children, or rather ourselves; for upon our union our safety depends. Hindostan should not know, that the legislature and the Company differ in opinion; but rather, that such harmony subsists between them as to render them in effect the same.

The motion for a Select Committee was carried without a division.

April 16. The Select Committee of 31 members was chosen by ballot, and the following is a list of the names of the gentlemen who compose it: Colonel Burgoyne, sir W. Meredith, sir George Savile, lord George Germain, Mr. Rose Fuller, Mr. F. Vane, col. Barré, Mr. Solicitor General, lord Howe, Mr. R. Sutton, Mr. Attorney General, Mr. Thomas Pitt, Mr. W. Ellis, sir Gilbert Elliot, Mr. G. Rice, Mr. Pulteney, Mr. C. J. Fox, Mr. Cornwall, lord Folkestone, general Conway,

Mr. Hotham, Mr. H. Ongley, Mr. G. Johnstone, Mr. Alderman Trecothick, Mr. Edward Bacon, Mr. A. Curzon, sir John Turner, captain Phipps, Mr. Gregory, lord Clive, Mr. Strachey.

Sir George Savile informed the House, that he wished to decline being one of the committee: that it was a sort of rule, that a member, being against the whole of a Bill, ought not to be on the committee on such Bill; that he therefore, being against the whole system of India affairs, ought not to be on that committee. He looked on their trade as destructive, either from bringing in too great an increase of money, which would overturn the liberty of this country, or from many of the importations, tea especially, being destructive of the healths of the people of England. He also protested against the territorial acquisitions, as public robberies, in the name of the kingdom: that in abetting, in any sort, this kind of transaction, he should look on himself as an accomplice: he therefore hoped the House would not think he meant any disrespect in not attending the Committee.

Debate in the Commons on the East India Judicature Bill.] The same day, Mr. Sullivan presented to the House according to order, a Bill "for the better Regulation of the Affairs of the East India Company, and of their servants in India, and for the due administration of justice in Bengal." The same was read a first time.

May 4. On a motion that the Bill be read a second time; the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir George Colebrooke	} 58
	{ Mr. Sullivan - - -	
NOES	{ Mr. Tho. Townshend, jun.	} 41
	{ Mr. Johnston - - -	

So it was resolved in the affirmative.

May 18. On a motion for going into a Committee on the said Bill,

Mr. Cornwall rose and said:

Mr. Speaker; having all along disapproved of the present Bill, both on account of the matter, and the manner in which it was introduced, and having been lately appointed one of the select committee for enquiring into the state of the East India Company, I cannot help enter-

ing my protest against your leaving the chair. I have attended that committee more closely than most other gentlemen; and from what I can see, the course of their enquiry will furnish this House with very material lights. But then it will be impossible for them this session to go through a twentieth part of the task imposed upon them. Will you then, while it is impossible for you to come at nineteen parts in twenty of the necessary information, proceed to establish a system of permanent laws and regulations for so great an empire as Bengal? Consult your Journals; you will never be able to find a single example of proceeding thus *ex parte*. Consider that this act is not intended for a temporary expedient, but for a lasting if not a perpetual charter. I do not mean to tell tales out of school; but I will venture to promise, that the report of the select committee will contain matter very proper for your consideration on this occasion. Drop, then, the idea of passing an Act, while a committee of your own House sits deliberating upon the subject, and finds matter growing upon their hands to such a degree, that it will be impossible for them to come to a final conclusion before the end of the next session of parliament. This idea it was that induced me to propose to the House the erection of a court consisting of a few persons, for the special purpose of enquiring into the state of East India affairs, and of having a report ready for the House after the recess. Since my plan did not take place, I beseech you to await the issue of your own. The present Bill has not come into the House in the regular and usual manner. We are not properly informed, whether it does or does not come from the proprietors. If it does, why did they not apply by petition, and prove the allegations contained in it at your bar? We should thus have something firm and solid to grasp, not a mere shadow, which nobody will avow. We are going to redress grievances, the existence of which has not been ascertained in a judicial and parliamentary manner. Not a single witness has been examined at your bar. Had this plan been pursued, it would, I believe, have appeared, that the present complaints concerning the mal-administration of justice in Bengal arise from the charter granted to the Company about 20 years ago. I am pretty well informed, that before that period there were few or no complaints, and few or no reasons to complain, but such as

[VOL. XVII.]

will happen in the best governed countries. The old charter was found to answer very well all the purposes of the settlement. Would it not be worth while, before we enter upon new regulations, to enquire whether the restoration of the old might not effect every good purpose intended by this new court of justice? For these and various other reasons, which will naturally occur to every gentleman, and which for fear of exhausting the patience of the House, I omit, I must, though I should be single in the motion, oppose your leaving the chair.

Mr. *Townsend* said, that the hon. gentleman needed not to be afraid of being single in supporting so reasonable a proposition; that not only for the reasons already urged he must second him, but likewise for this, that he had never heard any argument for proceeding in the affair without the lights expected from the committee, but one, namely, that we might, upon the general principles of reason and policy, frame a system of laws *à priori* for any country, and therefore for Bengal; that this doctrine appeared to him as absurd as if any one should insist, that because a taylor had a general idea of making a coat, he would be able to fit his particular person without having seen or ever measured him.

Mr. *Rose Fuller* said, that there was certainly something apparently absurd and unparliamentary in the present mode of passing the Bill; but, however, that there were in it some regulations so notoriously wanted, and so evidently beneficial, that it would be a pity to crush it all at once by such a motion.

Mr. *Whitworth* said, that if this motion succeeded, 15 millions of people would remain two years without any relief from the intolerable grievances under which they now laboured; that therefore he was for going into the committee, and for rejecting what was improper, and amending what admitted of amendment; that though they had not taken exact measure of the people of Bengal, and therefore could not exactly fit them with coats, yet, as they were absolutely naked, it was but charity to send them a few rags to cover their nakedness; that, if the hon. gentleman, who introduced the story of the taylor, were in their situation, that is, without any coat at all, he would be glad of a blanket or rug to cover him from the inclemency of the seasons, from the rapacity of the Company's servants.

[2 H]

The question being put, that the Speaker do leave the chair; the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir George Colebrooke	} 49
	{ Mr. Sullivan - - -	
NOES	{ Mr. Tho. Townshend, jun.	} 22
	{ Mr. Cornwall - - -	

So it was resolved in the affirmative, and then the House resolved itself into the said committee.

The preamble passed without any opposition; but when the Clerk read that part which gives the directors the nomination of the judges,

Mr. *Cornwall* said, that without a single witness examined on such an essential alteration in the constitution, he could not possibly give it his consent; and that, if the patrons of the Bill were not prepared to give him this satisfaction, he must move that the chairman should leave the chair.

Mr. *Welbore Ellis* said, that it appeared strange to him that such a clause should be proposed; that, according to the constitution of this country, all justice flowed from the crown; that the crown was not to be robbed of this ancient prerogative without just grounds; that, whatever prerogatives the crown possessed, it possessed for the benefit of the subject, and that, when the exercise of them did not tend to the benefit of the subject, it ought to be divested of them, but that it had not yet been proved that the prerogative in question was of this kind: that, if he was not mistaken, it was inseparable not only from the form but the essence of our constitution, and could not be touched without danger; that, if it was altered, the rest of the system must be altered to make it uniform and consistent: that the object of this clause of the Bill was to supply Bengal with a bench of independent judges. But who so proper as his Majesty to choose able and independent men? Who so improper as the directors? His Majesty could have no interest whatever but that of the public to direct his choice. The directors might be influenced by various considerations apt to lead them astray. What so common in Bengal as to see causes, in which the Company and the directors were deeply concerned, come into courts of justice? was it not therefore necessary that the judges should be under no controul from gratitude, from promises made on either side, from expectation or apprehension? The chief

grievance now complained of is the unlimited power of the executive branch, of the council and its dependent magistrates. What check so proper as such judges? To me they seem the best counterpoise that can possibly be placed in the opposite scale. These thoughts he suggested, he said, to the consideration of the House, before they would venture on this measure, but desired them to take notice that he made no motion, as he had not sufficiently weighed the matter to take a decided part on either side.

Mr. Attorney General *Thurlow* enforced the arguments of the last speaker, and added that though the charters of the colonies granted them a legislative authority, yet the nomination of the judges was left to the crown as its unalienable prerogative; that the point seemed to him so essential that, if the friends of the Bill would not give it up, he would join the hon. gentleman, who moved that the chair should be left; for that he had as lief lose the Bill as so invaluable a jewel in his Majesty's crown.

Mr. *Whitworth* adopted the same sentiments and language.

Mr. *Sullivan* said that, if the Attorney General and his friends meant at this clause to make a stand against the Bill, he would, sooner than give up that point, or suffer the Company for whom he acted to be curtailed of a power which they already possessed by charter, join him in voting for the chairman's quitting his place.

Sir *George Colebrooke* said:

Sir; I agree in opinion with the gentlemen who think that, if the nomination of the judges be vested in his Majesty, we are likely to be supplied with the most able and the best qualified persons. Those will accept offices from him in expectation of higher preferment in consequence of their good behaviour, who for want of equal prospects would refuse the same from other men. This I have heard complained of by those who have had occasion to make the trial. For the hon. gentleman, who says that the nomination of the judges in all the colonies is vested in his Majesty, is mistaken in the matter of fact. He does not nominate the judges in all the colonies. That power is in some lodged in the hands of the proprietors. Why, then, is it alleged that this is a prerogative inherent and unalienable in the crown? In these cases as well

as in that of the East-India Company, as matters now stand, this power (or prerogative if you will) is separated from the crown, and put into other hands. Has any evil arisen from this alteration in the constitution, for it is of too long standing to be called an innovation? I have never heard that justice was worse administered in the proprietary than in the chartered governments, in those where his Majesty appoints than in those where he does not appoint. Let us not then hear it more urged, that this clause in this Bill contains any thing new or unconstitutional. The crown is certainly more jealous of the sword than of any other prerogative; yet I never heard it urged as an objection to the East India recruiting Bill, brought into the House last year, that it gave the directors of the Company the nomination of the officers. If the nomination of the judges be so important to the crown, how came the nomination of much more important officers not to be claimed? Does the largeness of the salary proposed to be given awaken ministerial attention? Be this as it may, I believe the intended appointments will easily secure men of talents, and men of character. Why, then, should the Company's charter be altered in this particular? Have they not a mutiny act? Do they not hold courts martial? May they not with equal propriety hold courts of justice under a similar act of parliament? The matter will not admit of dispute. If officers chosen by them can exercise every power of a court martial, officers of their election may exercise every kind of judicial authority.

Mr. Solicitor General *Wedderburn* :

Sir; I am surprised to hear the language that is now held by the hon. gentleman who brought in this Bill (Mr. Sullivan). It is much better calculated for the meridian of Calcutta than of Westminster. When it is not moved, but simply hinted in modest and guarded terms, that the first clause of this Bill demands a little consideration, before it receives your concurrence, the dictator of Leadenhall gets up, and roundly declares, that if you mean to make a stand here, and to curtail the Company of any of its rights, he will vote for throwing out the Bill. Where, and to whom does he think he is talking? Is this the House of Commons, or the room of the secret committee in the India-house? I protest I am obliged to look round me to see whether I cannot recog-

nise this to be St. Stephen's chapel. I have heard that the committee were monarchs; but surely this is not the place to act the monarch. Suppose the minister, or any other that may happen to sit in his place, were to bring in a Bill, and to tell the House, "This is my Bill—I framed it—it is my work, and you must adopt it in the gross; if you alter, or but hint that you alter, a single clause or iota, I will get up and tell you, that I will vote for the rejection of the whole." Suppose, I say, this to be the case, how would parliament relish such language? It would certainly make the minds of the most servile revolt. And is it less disgusting in the minister of the East-India Company? I beg pardon, he is only the deputy minister. The minister of ministers is my good friend that honourable baronet, who indeed bears all his faculties meekly about him. Nor is the other in general destitute of moderation; he is indeed a prudent gentleman; but sway will debauch the chastest minds. Hence he forgot, I suppose, that he was not here issuing his mandates to the empire that he governs. He forgot the terms upon which this Bill was allowed to make so great a progress in the House. If I am not mistaken, all its contents were not agreeable to the ideas of any man; and it was tolerated on the footing only of its being capable of amendment. My hon. friend and I were called, not to the birth, but to the christening of this foundling; for I find, that nobody avows himself as its father. But I do assure you, that I did not act as its godfather, nor in any other capacity than that of a guest, who was to make merry, on so joyful an occasion. And merry, no doubt, we did make; for it was a jolly meeting, as such meetings generally are. Finding that nobody would own this hopeful child, I begged to have a sight of it, and with some difficulty it was at length unswaddled. After examination I did not find it proper to be adopted by me, and I believe it remains to this hour the child of the public. But, to drop the metaphor, I never gave my consent to have the substance of this Bill considered as approved by me; and I think it was unjustifiable in the hon. gentleman, who ushered it into the House, to make use of my name. Whatever of mine is offered to this respectable assembly, I would wish to be the result of reflection, not the crude and unconnected production of a tavern meeting. Upon the whole,

the manner in which this business has been conducted by the directors, and the readiness with which the plan is given up, make me suspect that no serious intention was ever entertained of doing any thing decisive in the affair, that this Bill was meant only as a tub to the whale, as something to amuse parliament, and divert it in the end from taking any part of the management of East India concerns from the direction. It was hoped, that tired with the discussion of such a strange Bill, we should at last resign the matter into the hands of the two kings, not of Brentford, but of Leadenhall. Why else was the consideration of so important a subject put off to the end of the session, when few gentlemen attend? A matter of such consequence should have been brought before us when we were fresh and active, and not now when we are jaded and fatigued with the toils of a winter campaign.

Mr. Pulteney :

Sir; I am very far from being of opinion, that the nomination of the judges should be left to the crown, in preference to the directors of the East India Company; and my reason for this opinion is, that the crown has, in several instances, made a shameful use of this power. The crown nominates the judges in most of the colonies, and there are the heaviest complaints against its conduct in that particular. Nor are these complaints without just grounds. I know them to be well founded; many gentlemen in this House know them to be well founded, and, I believe, no man will rise up, and attempt a justification. With so many recent and notorious instances of the crown's misconduct in so essential a point, in a point, indeed, the most essential of all others, as it affects the administration of justice; with such instances, I say, before my eyes, shall I vote for enlarging that authority, which I see is abused? Were I so complaisant, I should very little deserve the thanks of my constituents. What advantage, I beseech you, will be derived from lodging the nomination in the crown, that you do not enjoy upon the present plan? By this Bill, the approbation of the chancellor, and the three chief justices, must be procured, and they will certainly be less awed into an approbation of improper persons by the direction than by the crown. We have therefore, upon the whole, a better chance of seeing able and upright men chosen by the Company than by the sovereign.

But, notwithstanding what I have said, you must not imagine that I am a friend to this Bill. No, Sir, I see it pregnant with too many dangers, to give it my concurrence. In the first place it establishes no jury; all proceedings are, as in the court of Chancery, to be by bill and answer. What, Sir, are the lives of Englishmen to be taken away but by the English laws? Is it absolutely impossible to establish the fair and equitable mode of trying men by jury in Bengal? I have never heard any other argument against this institution but this, that there is not in Calcutta a sufficient number of British subjects to supply the rotation of juries. Now, Sir, I am informed by those who know the state of that place, that there are in it 300 British householders, who mean to make it their constant abode. Is not this number sufficient for the present? And will not the establishment of a proper system of laws encrease them? I think I need not be afraid of being found a false prophet, if I answer in the affirmative.

In the next place, this Bill fixes the number of judges at four. At present they are nine, besides the mayor or chief justice. Will you, without any enquiry, reduce them from ten to four? If I understand the Bill right, it is calculated to encrease rather than to diminish the causes that come before them. At present, the jurisdiction of the court extends not beyond the ditch of Calcutta; by this new regulation, it will extend not only to all places that now are, but that ever will be, under the dominion of the Company in the Bengal provinces. Ought not this consideration to have led the directors to augment, not to reduce the number of their judges? This is certainly the natural order and progress of things. As business multiplies, we multiply our hands in proportion; but the directors have found out a new way of governing. The question is, whether we shall adopt it in this place.

An hon. baronet tells us, that if the present mayor's court was such an engine of oppression in the hands of the Company, there could not have been so many appeals from its decisions; nor could it have decided so many causes against the Company's interest. If the hon. baronet means to speak of the mayor's court, as it stood before the last charter was granted, he is right. It frequently gave sentence against the Company, and this inflexibility was the very reason that application was made to parliament for the power of appeal

to the governor and council, and for the power of making and unmaking the aldermen. Ever since that period no absolute confidence was to be placed in the mayor's court. Yet still the court of appeal has been the chief object of complaint, and with justice; for I find that there is hardly an instance of application to the King and council from its determinations, where the Company has not been cast. Can a stronger proof than this be produced of its iniquitous and arbitrary proceedings?

But my capital objection against this Bill is, that it does not in the least remedy the tyranny of the double government now subsisting in Bengal. The new court of justice is only to take cognizance of suits between British subjects, and between such of the natives as chuse to apply to its wisdom: the British subject can have no remedy in this place against the black inhabitants, but must have recourse to the nabob's courts. Now, it is very certain, that most transactions of the Company's servants pass in the country with natives, and in places under the jurisdiction of the nabob's courts. It is equally certain, that the nabob is but the mere creature of the Company, and will act as the governor and council please. How easy, then, is it for them, by means of this engine, to oppress every man that falls under their displeasure! They have but to send their mandate to the nabob, and he crushes the obnoxious person beyond the possibility of redress. Nor is this a matter of mere speculation. The governor and council have actually adopted this mode of bringing ruin upon those whom they disliked. What has been may be again, and it is our business to embrace every possible plan of prevention. The despotism of this double government has been always the greatest grievance under which Bengal laboured. Shall we by a new charter give it our final sanction and approbation? This would be only riveting the chains of the unhappy sufferers, and rescuing them from the jaws of Scylla, in order to throw them into those of Charybdis.

Governor *Johnstone* said, that if the Company nominated the judges, the natives of Bengal would have no confidence in their integrity, so bad was their opinion of every thing that proceeded from that source; that, though the crown had abused any particular power, that was no argument for its total abolition; that the crown was liable to error, but that its advisers might and ought to be punished; that the direc-

tors acting under a statute did not stand in the same predicament; that therefore they might make a bad choice with impunity; that sir G. Colebroke was mistaken in asserting that, as matters stood, the Company enjoyed the exercise of the sword and other marks of sovereign power; that the framers of their charter had been very cautious in wording it; that they had preserved the rights of the crown inviolate; and granted them only a delegated authority to act under it in a judicial and military character: that this was so true, that as soon as an officer with his Majesty's commission appeared, as such, in India, all their military power ceased; and, that every military power was, during his stay, to be derived from him; that, as the Attorney General had truly replied, one of the great objections to the recruiting Bill brought into the House last session, was the very objection made to this Bill, that it took away the King's constitutional prerogative, the nomination of the officers.

Lord *North* said, that he could not agree with the Attorney General on the one side, nor with Mr. Sullivan on the other; that indeed the nomination of the judges ought to be, and must be in the King; but that, though they could not agree about this clause, though this clause should be entirely rejected, yet there were many other clauses, which ought to pass, and he therefore wished the chair should not be left.

Mr. *Dempster* said, that though not satisfied with the Bill in question, he had consented to have it brought in, because he had learnt from the best authority that the minister had declared he did not wish to see the ministry nominate so much as a writer to the Company; that, as he found he had receded from his promise, he was against the Bill; that the crown was already too powerful; that it had the nomination of too many officers, and that he was afraid that circumstance had frequently too much influence on the House; that he would not throw more weight into a scale that was already too heavy; that thus it would proceed from less to more, till it swallowed up all Bengal; that the East India Company was certainly an empire within an empire; that it raised and paid large armies; that it held courts martial and courts of justice; that it had a Mutiny Act, made peace and war, and exercised every other act of sovereign authority; that therefore no objection could be made to the Company's nominating the

judges, which might not be made with equal propriety to any or all of these acts; that therefore the objection was absurd, as it went, when pursued to its fullest extent, to the annihilation of the Company.

Upon a division, the motion, that the chairman do leave the chair, was negatived.

*Debate in the Commons on the Bill to regulate the Importation and Exportation of Corn.** April 14. The House went into a Committee to consider the present State of the Corn Trade, in which Mr.

Pownall moved the following Resolutions: 1. "That it is the opinion of this Committee, That the importation of wheat and wheat flour, rye and rye meal, into this kingdom, be admitted, for a limited time, free of duty. 2. That the importation of rice, from any of his Majesty's colonies in America, into Great Britain, be admitted, for a limited time, free of duty. 3. That, if the importation and exportation of corn were properly regulated by some permanent law, it would afford encouragement to the farmer, be the means of encreasing the growth of that necessary commodity, of affording a cheaper and more constant supply to the poor, and of preventing abuses in that article of trade. 4. That the duties now payable upon wheat and wheat flour imported into this kingdom, when the price of wheat is at or above 48s. per quarter, shall cease, determine, and be no longer paid. 5. That the duties now payable upon rye imported into this kingdom, when the price of rye in this kingdom is at or above 32s. per quarter, shall cease, determine, and be no longer paid. 6. That a duty of 6d. per quarter be laid upon all wheat imported into this kingdom, when the price of wheat in this kingdom shall be at or above 48s.

* "The inefficacy of the temporary Corn Bills, which had been passed in every session for some years back, had occasioned the forming of a Committee in the last session, for examining into, and considering the whole state of the corn trade, and of the corn laws, and for forming such resolutions thereon, as might be the basis of a comprehensive and permanent law, which should take in all possible cases, with respect to exportation, importation, prices and bounties, and thereby supersede the necessity of temporary and imperfect regulations. Several resolutions were then passed and approved of upon this subject, and the lateness of the season only prevented its being carried further. A Bill was now brought in upon the same principles." *Annual Register.*

per quarter. 7. That a duty of 2d. per cwt. be laid upon all wheat flour imported into this kingdom, when the price of wheat in this kingdom shall be at or above 48s. per quarter. 8. That a duty of 3d. per quarter be laid upon all rye imported into this kingdom, when the price of rye in this kingdom shall be at or above 28s. per quarter. 9. That the exportation of wheat, wheat meal, and wheat flour, from this kingdom, when the price of wheat shall be at or above 44s. per quarter, be prohibited. 10. That the exportation of wheat, wheat meal, and wheat flour, when the price of wheat shall be under 44s. per quarter, be permitted, with the bounty allowed by the statutes of the 1st William and Mary, and the 24th George the 2nd, upon such wheat, and wheat meal, as shall be of the growth of this kingdom, and exported according to the regulations prescribed by those and other acts of parliament. 11. That the exportation of rye from this kingdom, when the price of rye shall be at or above 28s. per quarter, be prohibited. 12. That, for and upon all wheat, wheat flour, and rye, which shall have been imported into this kingdom, and which shall be exported again thereout, shall be drawn back, any and all such duty and duties as shall have been paid, on the importation of the said wheat, and wheat flour and rye into Great Britain; such drawback to be demanded and paid under such rules and regulations as drawbacks in cases of the like nature are drawn back and paid."

Governor Pownall began by apologizing for his standing forward upon a matter of so much importance; but said, that what was intended to be moved was in consequence of several meetings, both last year and the present, of a number of gentlemen of the first interests and abilities in this country, who had maturely considered the business, and had delivered their opinions upon it. He then entered into an explanation of the actual state of the supply and consumption of the kingdom; and shewed, that the present difficulties did not arise from any scarcity; that there was as much, if not more corn grown than formerly; but, from the different circumstances of the country, the consumption was considerably more than the supply; and that this disproportion arose from the late immense increase of manufacturers and shop-keepers, the prodigious extent of our commerce, the number of people employed by government as soldiers,

sailors, collectors of revenue, &c. &c. and also the prodigious number of people who live upon the interests of the funds; also the great increase of the capital, the manufacturing and sea-port towns; that the surplus which we used to produce, was about one 36th part of the whole growth; and that any one might consider, whether the number of people he had mentioned were not more than one 36th of the whole people; and that therefore the real fact was, we had no longer a surplus. The consequence that he drew was, that if we really meant to have the country well supplied, we must do every thing to encourage the growth, and not discourage the farmer. He spoke much of the nature of the prices of things, and shewed, that though the prices of every thing were nominally risen, yet the price of corn was less so than any other article. He then shewed, from the nature of the market of great towns, that storing of corn must not be discouraged, nor the middle man; for if they were, great towns could never be regularly supplied, but must be in perpetual danger of famine. He concluded with saying, that though the principal end and intention of the resolutions he meant to move were for a permanent Bill, yet such were the present circumstances of the country, that an immediate supply, if it could be got, was absolutely necessary. He therefore moved a temporary Bill for immediately opening the ports for the importation of bread corn; and next moved the resolutions as the foundation of a permanent Bill to take effect when the temporary one expired; and said, that the end proposed by this Bill is that of creating an influx of bread corn for home consumption, in case of internal scarcity; and an aid to our foreign trade in case of our not having a quantity of corn adequate to that important and beneficial commerce. This purpose is conducted under such regulations as shall prevent any interference with the landed interest. In other words, (said he) if I may be permitted to use an allusion to natural operations, it means to introduce into our supply an additional stream, and to fix such a wear at such a height as shall always keep the internal supply equal, and no more than equal, to internal want, yet preserve a constant overflow for all the surplus, so as never on one hand to endanger the depression of the landed interest, nor on the other the loss of our foreign market for corn—by our not being able, as has been the case

for several years past, to supply the demands of that foreign market—as it is hoped that this measure will be formed into a permanent law. It is meant by the provisions in the Bill formed for the carrying it into execution—that its operations may go on, as the state of things does actually and really require, not as the interests of designing men may wish and will them to go; that this commercial circulation of subsistence may flow through pools whose gates are to open and shut as the state of the droughts, and floods, and tides may require, not to consist of sluice-doors which are to be locked up and opened by the partial hands and will of men.

Sir *T. Clavering* seconded all the motions relative to wheat, and moved those relative to rye; which were seconded by sir Edward Blackett.

Lord *North* said, that though a temporary Bill might be at present necessary, yet he was very glad to find we were likely to come to an end of it; and did hope, that the matter might now be put upon some permanent footing, as the only way to have the people regularly supplied, by giving a rational encouragement to the growth of corn, and proper foundation for the merchant to know how to export and import; and hoped the two Bills might go hand in hand, and one take effect when the other expired.

Sir *George Savile* said, he had always considered these temporary Bills as a false relief, like dram-drinking; and though we had always promised to leave it off, yet we could never come to the last dram; that he had always preached against this destructive custom, and did hope he should now see an end of it; and upon that consideration only, and in consequence of the encouragement the noble lord had given, that this should be the last, he would agree to take up the present cup; that is, the present temporary Bill, coupled with the permanent one that was to succeed it. He then expatiated largely on the nature of the supply of a country with bread, corn, and provisions, and the nature of prices; and concluded with saying, that there was no way of supporting a country but by encouraging the growth, which nothing but a permanent Bill could do.

Mr. *Freeman* said, he did not know there was any hoarding of corn in the country; but if there was, this Bill would bring it out, and therefore he was for it.

Sir *Joseph Mawbey* spoke in support of

the Bill, but was for lowering the prices at which the importation and exportation should take place.

Mr. *Gascoigne* said, such reduction might serve the brewer and distiller, but would discourage the farmer, and ruin the country. He then started some difficulties as to ascertaining the prices, and raised several objections to the Act for registering the prices.

Mr. *Pulteney* approved of the permanent law, but thought the prices for importation were too low.

Sir *C. Wray* spoke next, approving of the permanent law, and all the regulations contained in it, but thought the prices taken up too high.

Mr. *Stanley* urged some difficulties which occurred to him in the execution of the plan.

Mr. *Mackworth* said, that he approved the plan, and did not at present see any particular objections to the lines on which it was drawn; but thought, if the Bill was brought in and printed, this was as far as it ought to go, and that it should be dispersed in the country, for the consideration of all sorts of people.

Mr. *E. Burke* shewed that this matter had been already two years under consideration; that the opinions now proposed were unanimously agreed to by the House last year, and that the present time and circumstances of the country seemed to be the very proper moment for carrying them into execution; that if they could have any effect, this was the proper time to apply them. He then replied to the several doubts and difficulties which had been raised, in an excellent speech, full of that knowledge which he possesses of these matters; and explained, with that distinction of which he is master, both the effect of supply and trade; and shewed the united interests of the landed and commercial parts of this country; that nothing could be more detrimental than their jealousies of each other; and that nothing could be so advantageous to this country, as their united efforts for their mutual benefit: and, as this measure was animated with that spirit, he approved of it.

Mr. *Fuller*, though for the Bill, said, he had doubts of that part of it, which permitted the re-exportation, as thinking it might be the occasion of great frauds, &c.

Mr. *Dowdeswell* said, if this re-exportation was not permitted, we should never obtain the effect of a real importation; or if we did, such a quantity might be brought

as would overstock and depress the market, and finally distress the country. He also went into a general explanation of the grounds on which he approved of this measure.

April 15. The Resolutions were reported to the House, and a Bill was ordered to be brought in.

May 4. The House went into a committee on the Bill. In which,

Lord *Clare* said, that the distresses of the poor were become so urgent, as to render at least the attempt at a remedy absolutely necessary; that he and some others had made a minute enquiry into this affair in Essex, and that they found a labourer who had six or seven in family, could not, after paying for lodging and other indispensable articles, afford each more than three farthings a day for corn or bread. In such a state of things, was it not, then, absolutely necessary to discontinue the bounty for exportation, and to prohibit exportation altogether, when the price of corn equalled or exceeded 44, instead of 48s. a quarter?

Mr. *Edmund Burke* said:

Sir; nothing but the ingenuity of the noble lord could have made plausible the doctrine which he has now supported. He has laboured to prove that we ought to make provision for the necessities of the poor, and recommended charity as the great Christian virtue that is to remove all their wants. Sir, I am no enemy to the poor. On the contrary, I sympathise with their distresses. On this occasion I give way to the present Bill, not because I approve of the measure in itself, but because I think it prudent to yield to the spirit of the times. The people will have it so, and it is not for their representatives to say nay. I cannot, however, help entering my protest against the general principles of policy on which it is supported, because I think them extremely dangerous. At present we feel a kind of dearth, and the people are uneasy. What are we going to do for their relief? In order to remove a temporary evil, we are going to establish a general law which will operate when that evil has ceased. The average price of corn, as has been frequently proved, has sunk greatly since the bounty upon exportation commenced. What, then, can be more impolitic, than to discontinue a regulation, of which the utility has thus been ascertained by the most unerring of guides, ex-

perience? The intention of the bounty is only to enable our merchants to bring the British corn to foreign markets upon a par with what is furnished by the countries where it is sold. The bounty, therefore, is only meant to defray the expence of exportation, and without it you will never be able to export, except when there is a famine abroad. Now, is there any reason to apprehend that this will often be the case, or at most so often as to afford England a vent for the surplus of corn produced by a plentiful year? Nobody will hazard such an opinion. If it be so, will not England soon lose by this new establishment the corn trade, which has been to her the source of much wealth and prosperity? Will not the landed interest be deeply affected by that event? Will not less corn be grown? Will not less then come to market? Will not the price be enhanced, and the very poor, whom you mean to serve, most essentially injured? Sir, this is but a pitiful expedient for removing a pressure, which will return with double weight. I would have the people of this island know that, if they would be relieved, they must relieve themselves by an increase of industry. There is no other possible remedy. People may talk of charity, and parliamentary aid, but I am afraid these will in the end prove ineffectual. If the people of England should take it in their head to idle away one day extraordinary, no human contrivance could indemnify them. For what, I beseech you, are charity and alms and parish rates, the only succedaneum, but part of their own property, of the public stock? Let me tell you, it is not we that are charitable to them, but they to us. We hoard up a portion of what is produced by their labour, and, when we give it back, we give back but their own. Let us not, however, open our hands precipitately or indiscreetly, and endeavour to persuade them that we can give a relief, which is actually out of our power. Let us rather inculcate this maxim, that they must work out their salvation with their own hand. When the crops fail in this kingdom, what foreign country can give it aid?

Mr. *Constantine Phipps* said, that lord Clare had founded his calculation upon the price of corn in one of the counties near the city, where it was highest and where luxury prevailed; that in many parts of the kingdom the poor lived upon rye and other grain, and not solely upon fine wheat; that he did not find them less

healthy and robust, nor worse citizens than the sons of luxury near the capital; that therefore the people were not in general in such a desperate situation as was suggested; that at any rate the remedy was worse than the disease, and that he only concurred from a desire of giving some satisfaction to the people.

May 13. The Bill passed the Commons, and was carried up to the Lords.

Debate in the Commons on the Bill for encouraging Foreigners to lend Money upon Estates in the West Indies.] April 29. The Committee appointed to examine the Bill for encouraging the subjects of foreign states to lend money upon the security of freehold and leasehold estates in the West Indies, made their report to the House, as follows:

“That it is the opinion of this Committee, that it would tend to the more speedy and extensive cultivation of his Majesty’s colonies in the West Indies, and to the public benefit, if the subjects of foreign states were encouraged to lend money upon the security of freehold and leasehold estates in any of his Majesty’s colonies in the West Indies; and if the securities granted to such aliens were rendered effectual for recovering payment of the money so to be lent, by sale of such freehold and leasehold estates under proper restrictions.”

This was opposed with some warmth by several gentlemen, and particularly by those members, who either were possessed of, or had interest in, old and established estates in the West Indies. By these it was argued, That this impolitic innovation would throw the landed property of our islands in the West Indies into the hands of foreigners; that the Bill shewn them by Mr. Pulteney, its patron and proposer, put the estates in question exactly in the situation of mortgages; that it had always been the policy of this country to keep the land in the hands of natives; that there was no argument for keeping the soil of England in our own possession, which was not equally valid for securing the possession of the land in the West Indies: that, upon the plan proposed, our colonies would become only what the Texel was to the Dutch, a storehouse or magazine for the goods of all nations; that, in time of war, foreigners would thus have spies in our dominions, as they must be obliged to appoint persons to collect

the interest of the sums lent; that, as the colonies had general assemblies of their own, there was no occasion for the interference of the legislature; that they knew their own wants best, and could apply the best remedy; that the colonies had yet made no complaint about this matter, and that their silence could not be accounted for but by supposing that this act was not necessary; that, however much the Bill might answer the ends of some private individuals, it could promote no good public purpose.

These objections were answered by Mr. *Pulteney*, who said:

Mr. Speaker; if the opposers of this Bill mean by public purposes the purpose of keeping up the price of sugar, and by those means to enrich a few old planters at the expence of this nation, I must own that their plan is the more public-spirited of the two. Mine is calculated for rendering that commodity more plentiful, and therefore cheaper, by facilitating the cultivation of the newly acquired plantations. It is well known, that the erection of sugar works and other necessary buildings, and the purchase and maintenance of slaves, frequently oblige planters to borrow large sums of money upon the credit of their estates. It is equally well known, that money cannot in the West Indies be had under an interest of 8 per cent. a circumstance which must greatly retard the improvement of the new colonies, if it do not absolutely ruin them. From foreigners, money may be had at 5 per cent. where the security is unexceptionable; but, as the law now stands, doubts have arisen, whether any security can enable an alien or foreigner to recover money lent upon the estates in question. What objection, then, is there against giving them absolute security? It is said, that the colonists have made no complaint, preferred no petition, and that they have assemblies of their own. Sir, I, who have an estate in the newly ceded islands, can aver, that the planters do complain, and that they ardently wish for the success of this Bill. What else was my motive for bringing it into the House, but my own knowledge of its expediency, and the solicitations of the colonists? Let us not be told, that their own assemblies can apply a remedy. Sir, if they passed such a law, it would not be valid, because contrary to the law of this land. The British legislature alone is competent in this case, in which it is proposed to dispense, in some measure, with long

received principles of the constitution; not that there is any intention of absolutely mortgaging the land to aliens, or of empowering them to enter into possession. Such indeed was my first idea; but I dropt it from the same apprehensions that prevailed upon the passing the Bill for naturalizing the Jews. The preservation of the soil is a favourite idea of English jurisprudence, and I adopt it in its fullest extent. For this reason, the present Bill is framed so as to exclude aliens from the possession, while it enables them to procure the sale of estates for the payment of debts. These mortgages then, if they deserve the name, differ essentially from mortgages in England, where the mortgagee may foreclose the equity of redemption, and become absolute proprietor. Let us not, then, be frightened with vain names, with fears and apprehensions of losing the property of the soil, because we have the use of foreign money for its improvement. Had we all the money in Europe at a reasonable interest, and could we actually employ it in trade, so much the better. We must be gainers by the bargain. We should thus be the bankers of Europe. Were England in as great want of borrowed money as the West Indies, I should certainly propose the same expedient; nor should I be much afraid of the consequences. Foreigners may now lend money upon bond, and I cannot see how that practice is preferable to this mode. Certain I am, that the method of recovery is more ruinous to the borrower; but, as money may be here got upon reasonable terms, I think it unnecessary to render the law general, and common to all his Majesty's dominions. Where then is there any feasible objection to this plan? Why, our plantations will become nothing but storehouses and channels of smuggling for the Dutch and other nations! How smuggling will be more practicable than it is now I cannot see; but I can very well see, that it ought to be the policy of this country, to render itself and its colonies storehouses for all the world. How else have the Dutch flourished? Is not their whole country a kind of Texel? In vain therefore would a few interested men persuade us to deter foreigners from settling in our dominions. It always has been, and I hope now will be, the care of the legislature to invite foreigners, in order to supply that waste of people produced by emigrations to our widely extended colonies. To suppose that the lenders of the

proposed money will appoint agents or factors to gather the interest, and to act as spies in time of war, is absurd. They will never be able to bear the expence. Such a plan would defeat the ends of lending, and swallow up all the profits. No man will lend, till he has security for the payment of the interest upon the exchange of London or Amsterdam, or some other convenient place.

These arguments were seconded by Mr. Burke, Mr. Cornwall, and others; but on a division, the Bill was thrown out by 36 to 29.

Standing Order respecting Bills relating to Religion.] April 30. Resolved, nem. con. That no Bill relating to religion, or the alteration of the laws concerning religion, be brought into this House, until the proposition shall have been first considered in a committee of the whole House, and agreed unto by the House.

Ordered, That the said Resolution be made a standing order of the House.

*Debate on the Budget.**] May 1. The House having resolved itself into a Committee of Ways and Means,

Lord North said:

Sir; from the detail of the various provisions made for the service of the current year, and of the different sources of revenue, it appears that the whole supply amounts to 6,327,000*l.* and that there remains in the sinking fund a surplus of 1,800,000*l.* This being the state of the case, the question is, how this money is to be applied? And here the diminution of the public debt will naturally occur to every man, as a proper object of our attention. But what plan are we to pursue? Shall we apply it to the extinction of our oldest or newest debts, of the greatest or least sums; or shall we make an equal division of it among them all? The last scheme is evidently ridiculous; because the dividend would amount but to a mere trifle, and the distribution of it would be attended with insurmountable difficulties. Our funds not being, like those of France, composed of actions, or certain equal sums, are not adapted to such an operation. In order to make them more marketable, and that every one might buy or sell as much, or as little as he pleased, the legislature planned them upon a dif-

ferent scale; and therefore we cannot easily avail ourselves of such a project, had we in our hands even a sum that would operate with some effect. Nor will there be much equity in applying the whole sum to the extinction of our oldest debts, because in them some of the latest purchasers are concerned; and it is clear that the newest funds have no claim of preference on any account.

What, then, remains but to pay off with it a part of the greatest or least sums? Upon the former it would have little or no effect, the three per cents consolidated amounting almost to 40 millions: and therefore the same objection lies against this scheme as against that of dividing it equally among all the public creditors. Upon the latter it certainly would have a considerable effect, and indeed upon all the other stocks: for it would sink the price of the other stocks, and raise the price of those, to the diminution of which it might be applied. This, gentlemen will see, is an insuperable objection against ever appropriating money to the extinction of any particular fund. Nor is this all the disadvantage of beginning to pay off our least debts. The principal of the national creditors will thus see that they are never likely to be paid; or that, if they are, the day is so distant, as almost to have the same effect as an absolute refusal of payment. What effect such an apprehension would produce, I need not explain. The Committee sees that it would prove very injurious, if not ruinous, to the great body of stockholders.

What, then, you will say, is the equal and impartial plan that you propose, in lieu of all those that you have thus rejected? Having found that my former plan for reducing the national debt did not answer my expectations; and that the Bank does not seem very desirous of being paid the million borrowed of them upon the credit of exchequer bills, and which indeed we are liable to pay upon demand. Finding, I say this, and considering the lowness of the interest payable upon these Bills, I propose that it be resolved to be the opinion of this Committee, "That any person or persons, bodies politic or corporate, possessed of, interested in, or entitled unto, any annuities, being part of the capital or joint stock of 3*l.* per cent. annuities, consolidated by several acts of parliament of the 25th, 28th, 29th, 32d, and 33d years of the reign of George the second, and several subsequent acts, which

* Political Register—London Magazine.

were made payable and transferable at the Bank of England; or of the annuities consolidated by the acts of the 25th of George the second, and 5th of George the third, called reduced annuities, also payable and transferable there; or of certain 3*l.* per cent. annuities, which are payable and transferable at the South Sea House, called Old South Sea Annuities and New South Sea Annuities; or of 3*l.* per cent. annuities, payable, in respect of 2,100,000*l.* granted by an act of the 24th year of the reign of George the second, for the service of the year 1751; who, on or before the 15th of this instant May, and before the sum subscribed shall amount to 1,500,000*l.* shall subscribe their names, or signify their consent to accept, in lieu of their interest in any part of the said principal or capital stock standing in their names, and in full satisfaction and discharge thereof, the sum of 90*l.* in money for every 100*l.* and in that proportion for any greater or lesser sum or sums, composing one or more entire sum or sums of 100*l.* 50*l.* or 25*l.* of such principal or capital stock, one moiety thereof to be paid on or before the 15th of July next, and the other moiety on or before the 28th day of October next, together with the interest due on the whole capital stock, so subscribed to the 5th of July next, shall for every 100*l.* principal or capital stock, as aforesaid, so subscribed, be entitled to receive four tickets, in a lottery, to consist of 60,000 tickets, at the rate of 12*l.* 10*s.* each (and in that proportion for any greater or less sum) the said tickets to be paid for in manner following; that is to say, that every person or persons, bodies politic or corporate, so subscribing, or signifying his, her, or their consent as aforesaid, shall, on or before the 15th of this instant May, make a deposit of 1*l.* in respect of the money to be paid for each ticket, as a security for making the future payments, to the cashiers of the Bank of England, on or before the times hereinafter limited; that is to say, for and in respect of every such ticket, 2*l.* on or before the 19th of June next; 3*l.* on or before the 22d of July next; 3*l.* on or before the 21st of August next; and 3*l.* 10*s.* on or before the 2d of October next: that, upon such payments being completed, tickets shall be delivered, as soon as the same can be prepared, to the persons entitled thereto: that the sum of 600,000*l.* shall be distributed into prizes, for the benefit of the proprietors of the fortunate tickets

in the said lottery, which prizes shall be paid at the Bank of England, in money, to such proprietors, upon demand, on the 1st of March, 1773, or as soon after as certificates can be prepared, without any deduction whatsoever; and that all the monies to be received by the said cashiers shall be paid into the receipt of his Majesty's Exchequer, to be applied, from time to time, to such services as shall then have been voted by this House in this session of parliament; and every person or persons, bodies politic or corporate, so possessed of, interested in, or entitled to, any of the said annuities, and so subscribing as aforesaid, shall have a certificate from the said cashiers of the governor and company of the Bank of England, of the amount of the principal or capital stock by them respectively subscribed, and of all such sum or sums of money as he, she, or they, shall be entitled to receive, in consideration of such their subscription, and in lieu and discharge of his, her, or their capital stock, so subscribed; and the holders or bearers of such certificates shall be paid, at the Bank of England, the several sums of money expressed in such certificates, together with interest after the rate of 3*l.* per cent. per ann. on the capital stock so subscribed, in the manner, and at the times herein before described: that, upon payment of such sum or sums of money, with such interest, the whole of the principal or capital stock so subscribed shall stand discharged, and be annihilated; and the annuity payable in respect thereof, shall, from the said 5th of July, 1772, cease and be extinguished.*

The scheme being thus laid open, I think it incumbent upon myself to shew it is the most equitable and beneficial, that in our present circumstances can be invented, both to the stockholder and to the public. That it is the most equitable to the stockholder is manifest; because none is indulged with any preference; the matter being left wholly to his own option, and to the operation of causes, which admit of little calculation or human controul. That it is more beneficial to the stockholder, will appear from considering that it is intended not for a single effort, but as the first of continued exertions of the same kind and extent to throw off the burden

* The books were opened on Monday morning at the Bank at eleven o'clock. The whole was subscribed before one.—The crowd was so great, that many people were obliged to mount up a ladder to get into the room.

of our debts, and to refund to the proprietors of stock their capital. The public debts being thus put into a regular course of payment, the stocks will naturally rise, and gradually prove more and more advantageous to the proprietor, till they at last rise perhaps to par; for there was a time when they were at par. Look back 25 years, and you will find that it is only since that period that they sold for less than their original value. I am sorry that they are now so low, and that it is not in our power to apply a more effectual remedy. But, though we cannot effect so great a change as Mr. Pelham, yet let us attempt what our finances will bear. It is but what we owe to our country and to ourselves. At present there is the fairest prospect of the continuance of peace that I have known in my time. Suppose it then to continue for ten years: a supposition by no means extravagant. Peace has already subsisted for nine years; and, if we except the flurry of 1715, and the quarrel with Spain, which hardly deserve to be considered as wars, we shall find that peace lasted since the memory of man, 27 years. Hence the hypothesis of a ten years peace is by no means chimerical. The pacific dispositions of the French king, who regulates the motions of our great rival and antagonist, are well known. What, then, hinders us from cherishing this hope? I know I shall be laughed at for forming any calculation upon so precarious an event. Let it, however, be remembered that I assert nothing as a certainty. I might as well pretend to command the tides and winds as the passions of men. I only assert that at present there is the fairest prospect of peace that I ever knew. Let us then suppose that peace will last ten years more. What will be the consequence to this nation, if we continue to pay off annually one million and a half, or the same sum that this lottery, and 1,250,000*l.* taken now out of the sinking fund, will produce? Upon calculation I find, that 17 millions will be in that time discharged. Nor will this be the only advantage. The diminution of the annual interest payable upon the national debt arising from this manœuvre in the finances will raise the income in the sinking fund so as, in conjunction with the ordinary taxes upon land, malt, and so on, to make our annual revenue amount to seven millions. Now, suppose us to be at the end of this period dragged into a war. What sum is

it likely to cost us? Not such enormous sums as when we stood single against France and Spain, and at the same time protected two sovereigns. If we embark no farther in expence than we did in the wars preceding the last, our yearly disbursements will, as I find by computation, be at an average about seven millions.

Thus, then, shall we be in the space of ten years, in a condition, without any additional taxes, to undertake such wars as preceded the last. And let it be remembered that, though our successes were not so brilliant, though we did not gain so many glorious victories, nor made such extensive conquests, nor concluded such an advantageous peace, yet we sat down without any loss. What prevents us from adopting a similar plan of policy and economy upon a future emergency? We do not stand in need of any conquests. Our dominions are at least as extensive as we could wish; and their improvement, not their extension, should be our chief aim. Thus we see, what I believe no body expected at the conclusion of the last war, some, though no very certain, prospect of gradually reducing the national debt; a step which will necessarily raise our credit and authority in Europe, and terrify our enemies into pacific measures. For it is not only an armed force, not only great armies and great naval forces that will deter our rivals from violence, but the capacity of raising these bulwarks when occasion calls. And the latter method is surely preferable to the former, which generally tempts one party or other to commit acts of hostility. Such is the plan of defence which ought in my opinion to be adopted by a great minister, who has not so much to dread from foreign enemies as from domestic foes, from the violence of faction and the clamour of discontent. If he has not the firmness and steadiness of mind to despise such impotent efforts, if he cannot forego the empty applause of the present moment for the solid praise that will be bestowed upon him, when prejudice wears off, and calm reflection succeeds to passion, he has no claim to the title of a great minister.

Thus have I proved this plan to be the most just to the stockholder, and the most beneficial to the stockholder and the public. Such objections as occur to me, before they are made, I will endeavour to remove; such as do not occur to me I must necessarily postpone till I hear them. It will be asked, why this lottery is made

more advantageous to subscribers than the last, why they are allowed a profit that will in all probability amount to four or five or six per cent? I answer, that the profit upon the tickets is very casual and uncertain; but that this lottery was framed upon a liberal plan, that being the first trial of a great scheme it might come into the world with some eclat, and with a name that might contribute to its success. I shall therefore not be displeased if the subscribers gain four or five per cent. or even more. The difficulty of disposing of tickets when the profits are small, is known to every man conversant in this business. For the same reason the sums to be subscribed may amount to 10,000*l.* that the great men in the city may think it worth their while to be concerned. Hence, though the subscription is open, and as equal as possible, there will be left some room for imputation. Some gentlemen may have more gracious aspects, may be more alert, or even have more bodily strength than others. Any or all of these causes may operate to their advantage; and if they happen to be the friends of the ministry, suspicions will arise. People will insinuate that they were secretly favoured. Such misrepresentations all ministries are liable to; and the present ought not to repine that they are not exempted from the common lot of humanity. Whatever public precautions for making the subscription open could be thought of have been taken. Matters have been so ordered that the books may be opened on Monday, and there will be but one day to buy tickets on speculation.

Mr. Dowdeswell:

Sir; I am not displeased to find that the noble lord has dropt the plan of finance, which he adopted some years ago: because I was originally convinced from the reason and nature of things, and I am now assured by experience, that it was not the most eligible. The reduction of so small a sum, from four to three per cent. was but a pitiful experiment upon a commodity, which should not have been touched but in the gross; because the purchase of it thus in the detail warned the public creditors to keep up the price, so that the minister's skill in the finances raised the value of the four per cents, which it is the business of government to buy, and sunk the value of the three per cents, which it ought to sell. This doctrine was sufficiently explained to the mi-

nister at the proper time, but I do not blame him for want of sagacity in rejecting it, as I now praise him for not obstinately persisting in this as in other ruinous measures, in order to evince to the admiring nation the firmness and steadiness of his character.

But, though I thus do justice to him in one particular, let it not be imagined that I approve of his present plan. In my opinion, the payment of the million due upon demand to the Bank, would have been the proper application of this year's surplus. For the payment of the three per cents, you may take your own time; but, when called upon by the Bank, you must find the money, except you chuse to violate parliamentary faith. What opportunity, then, so proper as the present, when money lays, in some measure, idle in your hands? Upon hearing that the Bank had ceased to discount bills, I concluded that this step would be taken; because I could see no grounds for so extraordinary a measure in that corporation but a want of money, or capital. Knowing, as I do, the vast utility of credit in trade, knowing that the Bank itself was instituted upon this principle, and that it gains considerably by the discount of bills, I had no other way but this supposition to account for the phenomenon. Was it not then natural in me to expect that, though the Bank should act contrary to the interests of trade, the minister, that watchful Palinurus who steers the helm, would have adopted this scheme in order to force them to act as the public good seemed to require? The refusal to discount bills upon houses, whose credit falls not much short of that of the Bank itself, seemed to me almost as absurd as if these houses had refused Bank bills. Certainly they may do it upon the same grounds, and with almost as good a grace. See, then, what distress this would occasion in a country, which has accommodated itself to the most extensive credit! Was not this an object more worthy of the noble lord's attention than this drop which he has taken from the ocean of the public debts? Nor does he, as he imagines, pay off these fourteen hundred thousand pounds of our debts. He only purchases so much of the stockholders, if they chuse to accept his bargain. Payment supposes a tender of the full sum due, of a hundred for a hundred. Here we have a kind of compromise with the public creditors; but not

such a compromise as the state of the funds and of the nation required. In the first place it is unequal to the stockholders; because the proprietors of different stocks, whose values at market now differ by two per cent. are to have the same sum for every hundred. Ought not the minister to have attended to this circumstance, and to have hit upon some expedient, that would have put all parties upon a par?

In the second place, he has been as careless of the interest of the nation as of that of the stockholders. By this lottery the public gains only 150,000*l.* whereas in former lotteries, when there was not so fair a prospect of peace, if we may believe the minister, it gained 200,000*l.* Is this the lucrative and beneficial scheme that it is represented? Had he in these peaceful, these halcyon days, made a more profitable bargain than was made in any former period, he would have done but his duty. But perhaps, notwithstanding the flattering appearance of an open subscription, there are some friends, some favourites to be served. It is worthy of observation that the terms of the subscription are such as will put it in the power of 150 men, or less, to engross the whole. I say less; for may not the same individual subscribe in the name of another person? Such collusion is not, I believe, easily prevented in these transactions; and particularly in this, where the profusion of the minister throws out so tempting a bait to avarice. Were not the noble lord sensible that this new plan of finance would not bear scrutiny, would he have supported it upon so sandy a foundation as the possible continuance of a ten years peace? The French king is of a pacific disposition, and thereby we shall have a ten years peace. Has the noble lord then ensured his life for ten years? Who will answer for so uncertain an event? Suppose he should live that time, yet is not peace absolutely certain. Pacific as he is, he was lately very near being dragged into a war by his minister, and the fact is, that he has been in the space of less than thirty years engaged in two bloody and expensive wars. May not the king of Spain, who is of a more active and warlike frame of mind, and who entertains an inveterate hatred against this nation, strike the blow, and will not the family compact force him to follow the other's example? Let it even be granted that these apprehensions are groundless,

yet it will not follow that at the end of ten years we shall have saved 17 millions, and added 700,000*l.* a year to our revenues. For I observe, that it is the maxim of administration to encrease our expence according to the encrease of our income. Will the minister in the course of ten years, talk of no new establishment, no payment of civil list arrears? I do not assert that this will be the case; I only suggest the possibility of it. Besides, who will take upon him to say that the revenue may not decrease? According to the noble lord, it has actually decreased this year: or, at least the money expected has not come into the treasury. But where is the wonder, when such little care is taken in the appointment of proper collectors? Sir G. Yonge, who was, if he is not now, a lord of the admiralty, is a proprietor, purchaser, and commissioner in the newly ceded islands. I do not mean to impeach the character of this gentleman; but I think it is not in human nature to do justice in so many capacities. One comes with his bag of gold, another comes with his bag of diamonds, and flesh and blood cannot withstand them. The minister therefore, needs not be surprized, that the expected sums have not come into the treasury. If the rest of the commissioners be on the same footing the failure was unavoidable.

But why should this carelessness in administration give any concern to us, who have allowed them to grant, without any examination, such large sums for American extraordinaries? In that department there is no check, no controul upon administration, and those whom they may chuse to appoint. We have never seen any estimate of the probable expence; not a scrip of paper has been laid before us, in order to enable us to form some idea of the sums proper to be granted for that service. How are we to account for the embarrassed state in which these matters are left? Is it uncharitable to suspect that this confusion is intentional, that it may be the more difficult for parliament to detect any malversation, any extravagance or speculation?

The same species of reasoning is applicable to the navy, of whose state we have heard such wonders. Last year you voted 40,000 seamen: 30,000 only were raised. But has the money intended for their maintenance been hoarded up, and brought to the account of savings? By no means, Sir, the whole has been spent. The gross

sum of 500,000*l.*, which you voted for a particular purpose, has not been applied according to your express orders, but been diverted to another service. Is this discretionary power in the Admiralty to be tolerated? Is it to be allowed to expend such an immense sum as two millions, for that is the sum voted last year for the sea service, as it pleases; and then to send us in only a general account of its disbursement, without producing a single scrip of paper, a single voucher, to show how, or when, or where it was laid out? I am amazed that the ministry should have attempted to slur over so capital a point. Single as I am in this opinion, and, late as it is in the session, I cannot help entering my protest against this method of disposing of the public money. In another session I shall certainly move for an enquiry into this dangerous practice, and try a division upon an œconomical question. If lord Sandwich is to have the arbitrary disposal of such a prodigious sum, well may he boast of having put the fleet in excellent condition. But no thanks are due to him, but to your bounty. It has been lately the custom to extol lord Sandwich, and to depreciate sir E. Hawke and admiral Saunders. But when had they 500,000*l.* extraordinary to sport with? Want of money, not want of skill or vigilance, kept the fleet, while they directed the Admiralty, in so weak a state. The noble lord has given us a picture of a great minister. Let me be indulged with liberty to throw out my ideas on the same subject. In my opinion a great minister does not show his firmness so much in despising the clamours of his fellow-citizens, as the threats of his country's enemies. A great minister will not suffer his Majesty's dominions to be seized, nor the British flag to be insulted with impunity. He will not see the nation put by an enemy to an enormous expence in warlike preparations, and require no indemnification. He will have a head to plan, and a heart to execute, measures of his own, and not be the mere instrument of another. He will not one day give orders for a naval armament, and in five days, a space of time too short for receiving a more favourable answer from the continent, countermand those orders. The fleet I allude to was intended, as is evident from its being to rendezvous in the Downs, against some northern power. Could any fresh dispatches have arrived from any northern court in five days? What then

was the object of this fleet? Can any one tell us? After such a recent and unaccountable fluctuation of counsels, does not the minister talk with a peculiar grace of manliness, steadiness, and firmness, and other Roman virtues?

Mr. *Jenkinson* said, that the difference of one or two per cent. in the price of some of the stocks, was a matter of little consequence; that to-morrow there might be no difference, as the price of stock was so very fluctuating; that at any rate it was impossible to invent a scheme that would be entirely unexceptionable and equal to all parties; that an approximation to an equality was all that could be expected; that Mr. Dowdeswell was mistaken in supposing that government had gained 200,000*l.* by lotteries of the same kind; that it had gained only 180,000*l.*; that the magnitude of the present plan, and the advantages arising from its success, called for a little liberality in the public; that when he heard of the Bank forbearing to discount bills, he entertained the same opinion as Mr. Dowdeswell; that the noble lord being of the same opinion, had asked the Bank, whether they wanted to have the million in question paid; that they declined the offer; that he thence concluded the Bank had not discontinued the discounting of bills for want of cash; that he believed their motive in this measure was to prevent the exportation of our coin by Jews, who by this iniquitous traffick made a shilling upon every guinea, and received bills of exchange in return; that, as this was the real state of the case, the scheme now offered by the noble lord was the only sensible way of serving the public that remained; that as to the American extraordinaries, orders had been given for sending in such papers as would enable the treasury to form an estimate; that from some cause or other, which he did not know, these papers were not yet complete; that he hoped they would in another year be complete, and that then the House should have the satisfaction required: that, with respect to what had been said of the navy, he would be silent, and allow those, whose province it was, to explain that matter; that the favours which he had received from the minister left his testimony to his integrity and uprightness but little weight, but that, as far as his word would go, he must upon the principles of gratitude and justice, free him from all imputations of selfishness or negligence in the management of public affairs.

Mr. *Hervey* said, that the money granted by parliament was properly laid out by the Admiralty; that he meant to have that day produced to the House the papers which gave an account of its expenditure; but that in the multiplicity of other papers they had been mislaid; but that he would endeavour to bring them on the following day; that he knew of no orders given to fit out a hostile armament; that, for ought he knew, the fleet in question was no more than what he hoped we should for the future see every year, a fleet ordered to rendezvous for the purpose of going through the naval evolutions, and of forcing every man concerned to keep our ships in good repair, and of proving to the nation, and to all the world, that our grand and natural bulwark is in the best state of defence.

Mr. *Cornwall* said, that he entirely agreed with Mr. Dowdeswell in what he had said with regard to the navy; that, though so nearly connected with the sea service, he yet could not help entering his protest against allowing the Admiralty a discretionary power of applying such an immense sum of money in what manner they pleased; that he congratulated the noble lord upon his relinquishing the plan of close lotteries; that the only list of subscribers ever shown to the House was the most disgraceful to the minister that could be imagined; and that he hoped for the sake of his own character the noble lord would never more plan a close lottery; that while such transactions stared parliament in the face, it was in vain that his friends and dependents vouched for his disinterestedness and generosity.

Lord *North* replied, that in his opinion Mr. Jenkinson had satisfactorily answered Mr. Dowdeswell's objections to the lottery; that however severe that right hon. gentleman's reflections might be upon him, he would not repine while they tended to the public good; that, as to the money arising from the sale of lands in the conquered islands, he could not explain the reason of its not reaching to the Treasury, but the fact was, that it had not yet reached it; that he understood the gentleman who superintended that business was on his passage home, and that he doubted not he would satisfactorily explain the mystery; that, with respect to sir G. Yonge's possessing so many places, the present ministers were not peculiarly blameable; that no complaint had been preferred against him; that he acted, and with satisfaction, in the

same capacity, during two former administrations, in one of which Mr. Dowdeswell bore a capital part; that the hon. gentleman had his leave to represent him as a bull or bear, or lame duck in the Alley, if he pleased; that there were good grounds for ordering out a fleet, and good grounds for countermanding it; that every thing was obtained which could be obtained by a fleet; that, except he was commanded by the House, he could not think it proper to disclose so delicate an affair; that time would discover it, and fully justify the conduct of administration; that Mr. Dowdeswell accused him unreasonably of having no plan of his own, as it was enough if he approved of another's scheme to make him adopt it; that to come into the House, and say, "this is my plan, I framed it, and you must embrace it," would be such arrogance and presumption as the Commons of Great-Britain would never endure; that he never meant to apply to himself the character of a great minister which he had given; that it flowed naturally from the rest of his discourse; that any man in the House, and particularly Mr. Dowdeswell, would execute better than himself a trust, which, however, he endeavoured to discharge faithfully, and ably as far as his talents would go.

Mr. *Edmund Burke* :

Sir Charles Whitworth; I do not rise so much to discuss the new plan of finance proposed by the minister as to offer my sentiments upon certain unconstitutional doctrines, which he has advanced. The right hon. gentleman, who spoke second in the debate, begs to know the reason of the contradictory orders lately issued from the Admiralty; for, notwithstanding the pretended ignorance of an hon. gentleman, who sits at that board, such orders, I find, were actually issued. The noble lord does not deny that we have a right to enquire into this, as well as into all other matters, that affect the commonwealth. But how would he have us institute this enquiry? What plan does he chalk out to enable us to come at the proper data, at the facts, upon which our decision must depend? Why, he refers us to time. Time is the sole oracle to whom we must apply for the solution of all our doubts and difficulties. From the minister no information is to be expected. These secrets, as too sacred to be trusted to our profane keeping, he preserves lock-

ed up in his own breast. How long is it since we became thus unworthy of having whatever affected the honour and dignity of the nation communicated to us? There was a time when ministers thought themselves bound to account to this House for their conduct; but it is now no more. If we call upon those who are in responsible offices for any necessary information, they desire us to go and consult time. The ancient parliamentary mode was to apply to the treasury, to the admiralty, or directly to the sovereign; but now we must turn our eyes to time. A very useful invention this to administration; for it will render any enquiry into their conduct very difficult, if not impossible.

Sir, I am not surprized to find the House so very disorderly; for the matter under consideration is of so very little consequence, that it does not deserve their attention. The public entertain the same opinion; for you see the galleries are like to break down with the weight of strangers, as you are pleased to call the people of England. How well this circumstance proves the existence of that sympathy, which ought ever to subsist between the electors and the elected! But where is the wonder? The discussion of a plan of finance new in its kind, and extensive in its effects: a plan, upon which the minister means to build the salvation of this country, is to them an object neither of curiosity nor of interest. They treat it, as if it affected their constituents as little as themselves. But why do I talk of constituents? They have been long out of the question.

Sir, I protest, this is a mere parliamentary farce, and you act a great part in this farce. I see I shall be called to order. Be it so. I will do my duty, and speak my sentiments without reserve. I repeat it, this is but a grand parliamentary farce. The minister comes down in state, attended with his creatures of all denominations, beasts clean and unclean; for the Treasury, as it has been managed of late, has been worse than Noah's ark. With such, however, as they are, he comes down, opens his budget, and edifies us all with his speech. Well; he sits down. What is the consequence? One half of the House goes away. A gentleman on the opposite side gets up and harangues on the state of the nation; and, in order to keep matters even, another half retires at the close of his speech. A third gentleman follows their example, and rids the House of ano-

ther half—(loud laugh through the House)—Sir, I take the blunder to myself, and express my satisfaction at having said any thing that can put the House in good humour. Whether the House be emptied by one half, two halves, or three halves, the public is equally deserted. While gentlemen will not only not attend their duty in parliament, but disturb and confound those who would preserve at least some show of conscience, how can I help calling this a parliamentary farce? Sir, it is an egregious farce, and the nation sees and feels it. But what care they? They are firm and steady, and despise the clamours of faction. Sir, when did you hear of an odious ministry that did not call the clamours of the people the clamours of faction? I am not surprized at their firmness and steadiness; I mean their firmness and steadiness in keeping their places. Who that is destitute of conscience and that laughs at the murmurs of his fellow-subjects, would not in this House, surrounded by a complaisant majority within doors, and defended by 40,000 men without doors; who, I say, thus disposed, would not show as much firmness and steadiness as our intrepid ministers? But have they discovered the same firmness in negotiating with our enemies? that is the question. There is not a lisping infant that will not answer in the negative.

Having said thus much, let me join my right hon. friend on the floor in protesting against this new and dangerous mode, which has been lately adopted of diverting sums appropriated by parliament to particular purposes from the specified services. If this practice be allowed, I do not see for what purpose we assemble here, and assume the name of the people's representatives. Give but a discretionary power of this sort to any man, and he will render it impossible for you ever to know the detail of every service, or to detect him in any fraud or peculation. Far be it from me to charge lord Sandwich with any thing of this nature. No, Sir; such an attempt would be vain; the public knows him to be a man of pure hands and hallowed heart; in short, an Israelite indeed. An attack, therefore, upon his character would be as ridiculous as impotent; it would be only biting a file.

And now, Sir, indulge me with leave to say a few words upon the subject of military establishments.

The practice of keeping on foot large standing armies in time of peace, though

not absolutely modern, (for we read of such an institution in ancient times) is new to the extent it is now carried in Europe. Charles the 5th was perhaps the first great monarch that set the example. Lewis the 14th trod in his steps. But what was the consequence of their mighty efforts? In time of peace they exhausted that strength which they should have reserved for war. Those young and vigorous men whom they kept in idleness, should have by their industry and labour added to the wealth and population of the state. Hence, when they entered upon real action, they found themselves destitute of the sinews of war, of wealth, of provisions and money, and of recruits of men, without which veterans soon moulder away, and convinced them of the shortsightedness of their politics; while their adversaries, though a little embarrassed at first, improved daily, and went on from strength to strength, till at last they proved superior. It is therefore with regret that I see our military and naval establishments constantly upon the increase. At the end of every war it gains something. 8,000 men constituted our standing army at the close of king William's wars. It gradually rose from that number to 16,000; and now it stands at 25,000. The Irish army was augmented in the same manner from 12,000 nominally to 15,000; and yet I will venture to say that Ireland is not better protected nor secured in any shape than it was before the augmentation. Upon the same plan our seamen are augmented.

In short, Sir, all our expences of every kind are constantly rising not only according to the prices of things (a misfortune which will necessarily attend the increase of specie) but also according to the lapse of time. Every year adds something new to our disbursements. What will be the consequence of this profusion? In vain do our revenues encrease—a supposition indeed which does not seem justified by this year's accounts, if we thus eat our corn in the blade, and spend our strength upon the empty air: if we thus draw our swords before the day of battle comes, and exhaust upon the parade what should be reserved for the field, we shall certainly find ourselves in the situation of Lewis the 14th, who with an army of 300,000 veterans, found himself at last unable to cope with this nation, who had entered the field with less than 10,000 men. It must be confessed, that at first we are in some

confusion, or as the noble lord elegantly calls it, in a flurry. But we soon recover. We are naturally warlike, and in a short time learn tactics. Possessed of wealth, possessed of people, possessed in short of all the sinews of war, we every day gain upon the enemy, and his spirits sink as ours rise. This being evidently the state of the case, what can we mean by imitating those two states of Germany, who are gradually wasting one another's strength by an armed peace, and who are every day ruining their subjects for the show of an army, which in time will moulder away, and leave a dreadful waste behind? France has discovered the bad policy of keeping up a large army, and has therefore begun a plan of reduction. While she is retrenching, ought we to add? Let us return to our old policy, by which we grew great and glorious, and trust to our own native bravery, and the strength of our insular situation for our defence. Formerly, our militia was nothing. Now, it is added to our annual expence. When it was established ought not the regulars to have been proportionably reduced? But the minister will say, what could be done? When France sent an armament to any part of the world, were we not forced to send out an armament of observation? If they send a fleet to Mauritius, did not prudence require that we should send out a fleet to watch their motions? By no means. If you follow this plan, you teach France and Spain the true method of ruining you. The most prudential method of proceeding in those cases is this. You have ambassadors at foreign courts, and if they be vigilant, they may give you intelligence of all the motions of your rivals. Without their knowledge they can send out neither fleet nor army. As soon, therefore, as you learn that they have taken any step that indicates hostility, demand an explanation, a categorical answer with respect to the destination of the armament; and let them know that they shall answer in Europe for any hostile measure they take in Asia or America; that you will not be pursuing them from place to place, but strike a decisive blow where it is most convenient; that instead of keeping a fleet in the East or West Indies, you will seize their merchant-men, burn their harbours, and destroy their men of war. This is the true way of dealing with France or Spain. The law of nations has established it as a maxim, and to the observance of it at the beginning of the

last war the king of Prussia owes that great and glorious figure which he now cuts in Europe. Would it be unworthy of our ministry to imitate so great a politician?

Mr. *Charles Fox* observed, that there was nothing new in the Admiralty's practice of applying to one what was intended by parliament for another, as it was authorized to do so not only by custom and necessity, but by the very words of the grant, as any one might see by consulting the Act.

Mr. *Burke* replied, that he was very well satisfied that the practice, as now managed, was not only new, but unconstitutional; that, till now, it was never heard that the Admiralty, instead of giving a minute detail of the application of so large a sum as 500,000*l.* laid out according to its own discretion, told the House in general that it was expended upon the navy, that some regulation in so essential a point, was, for the future, absolutely necessary.

Mr. *Constantine Phipps* said, that the merit of lord Sandwich consisted in having insisted upon being the sole director of the navy, and refusing to undertake that department, if he was not allowed more ample powers than his predecessors; in short, if he was not to be his own master, but the deputy of another man. If this state of the case was true, his conduct, he said was certainly meritorious.

Mr. *T. Townshend* said, that many members had misunderstood what was said by Mr. Dowdeswell, with regard to the navy; that he did not accuse any man of malversation, but blamed the House for not insisting upon a minute and circumstantial detail of the expenditure of the money laid out upon the navy; that he was convinced the troops we had stationed in the West Indies answered no good purpose; that the West India islands must be protected by our shipping, not by our soldiery; that European soldiers found that country only a grave; that by accident he had seen a regiment returned from their two years service in that part of the world, and that they were reduced to seventy men; that their successors in the same period of time would be equally reduced; that for these reasons nothing was more impolitic than to keep up so large an army, which in case of necessity must prove ineffectual, as it was merely nominal; as it swallowed up as much pay as if it was complete, and was incapable of any real service.

Lord *North* said, that he agreed with Mr. *Burke* in the general principles which he had laid down, and that no man laid them down in a more agreeable and convincing manner; but that general principles were not always applicable to particular cases; that the armament in the East Indies was sent out as a fleet of observation to prevent any designs of the French in that quarter; that France had a considerable force stationed at the Mauritius; that that force was obviously intended against our dominions in India; that self-preservation called for preventive measures on our sides; that the ministry would have been blamed, and justly blamed, if they had not taken this step; that, when our rival withdrew her forces, ours would naturally follow; that, in consequence, our navy would be lessened by six ships; that, when this event actually took place, he was of opinion that we should return to our old establishment of 16,000 men; that he would join issue with any man in making any reduction that was consistent with the general safety; that the reflections cast upon the disbursement of the money appropriated to the service of the navy, were ill founded; that the Admiralty was not, by the grant, confined to such narrow limits as were usual in other cases; that, however, those who sat at that board were answerable for any misapplication of the money allotted for the sea-service; that he was persuaded it had been on this occasion properly applied; and that it was at any time in the power of the House to be convinced of it.

The Resolution was agreed to.

Debate in the Commons on the Bill to regulate the Elections of Committee-men for the African Company.] May 5. Sir W. Meredith having some time before presented to the House a Petition from the merchants of Liverpool, complaining of malversation in the management of the African trade, Mr. Jones, a merchant in that trade, was called to the bar. On his examination it appeared, that at present the number of freemen entitled to vote for governors of the Company amounted to 1,425; that about the time of election it was customary to bring in lists of such as were proper for being chosen; that, upon the payment of 40*s.* the corporation-fee, they were elected; that there were strong reasons for believing, that these voters were made free at the expence, not of themselves, but of certain monied men,

who meant to monopolize the management of the Company; that very few of these freemen were any way concerned in the African trade; that their place of abode could not, upon the strictest enquiry, be found out; that the share of the Liverpool merchants in the African trade was to that of London nearly as 29 to 8, or 4 to 1; that there were well-grounded complaints against the committee of the Company.

Mr. Cleland, another African merchant, who had stood candidate for the office of committee-man, deposed, that many of the freemen could not, upon the most diligent search by him and his friends upon Change, and at the Post-office, be traced out; that several of the letters directed to them came back, because no such persons were known.

Mr. Sylva, clerk to the Company, deposed, that a Mr. Wilson brought a list of 150 or more persons to be elected freemen at one time; that as he did not at any time take the corporation fee, he could not tell who paid the money; that very few of the voters were concerned in the African trade.

Mr. Smith, one of the most considerable in the trade, declared that there was a combination formed by a few men for having the direction of the trade, for private and bad purposes: that he saw a bond of association entered into by five men for bearing jointly the expence of elections, and for converting the trade to their own advantage; that James Johnson, — Wilson and three other names, which he gave from a paper in his hand, were the persons; that he did not know whether the paper existed now or not: that of late there were heavy complaints against the committee; that he himself had, with others interested in the trade, signed a complaint against them to the Board of Trade.

The Speaker would not, at the instance of sir William Meredith, Mr. Phipps, and Mr. Dempster, suffer Mr. Smith to speak to the contents of the paper, because it was the rule of every well-regulated court to admit only the best evidence that could be had. If the paper cannot be got, it will then be time enough to call upon Mr. Smith, who will thus be possessed of the best evidence in our power to procure.

Mr. *Peregrine Cust*, who seemed to take upon him the defence of the gentlemen arraigned, observed, that none of the witnesses could say, that they knew of any complaints preferred against the com-

mittee till very lately; that no alteration was made in the constitution of the Company, but that it stood upon its ancient foundation; that the trade was in a flourishing condition, as he would undertake to prove, after they had allowed him to examine the Company's secretary; that this could not possibly be the case, if their affairs were mismanaged, or if there was an iniquitous combination; that the act of parliament, which established the qualification of voters, meant to put the Company upon as wide a basis as possible, that the West Indies, who were more concerned in the African trade than London and Bristol, and the rest of our sea-ports put together, might sustain no injury by any combination among interested men.

Sir *W. Meredith* answered, that the Company might be in a flourishing condition, but yet not in such a flourishing condition as they would naturally have risen to, if these combinations did not exist; that men would never enter into combinations, if their views were upright and honest, much less would they introduce spurious voters, and be guilty of a fraud, or elude the intention of an act of parliament; that the act of parliament could never mean to throw the management of the African company into the hands of men who were no way concerned in it, and understood nothing of its nature; that he did not intend by an inquiry to throw any reflection upon any man or set of men; that he meant only to do justice to his constituents, who, as appeared from the evidence, were so essentially interested in the matter; that it was clear, that so many spurious votes as were admitted at elections, would necessarily take the management of affairs out of the hands of those who were best qualified for conducting, and most affected by the African trade; that no man could be a better judge of that matter than Mr. Cust, who came into parliament by means of 34 voters of New Shoreham; that the 800 now appointed by the legislature, for the manifest corruption of that borough, to vote at elections, would render his 34 votes of very little use; that in the same manner, the eleven hundred spurious votes, admitted at the election of a committee for the African company, would render the 250 legal votes of little service; that in order to put things upon their ancient and legal footing, he wished to have this matter maturely considered, and that he did not doubt of proving, if so manifest a thing required a

proof, to the House the necessity of the proposed reform.

Mr. *Burke* said, that at present the free-men, whether spurious voters or not, ought to be considered as legal voters, till they were proved the reverse; that they bought their qualification, or at least were supposed to have bought it; that they were not to be deprived of their franchise but by due course of law; that the case of New Shoreham was not similar, because the electors of that borough had been proved guilty of notorious corruption, and because no such charge was made good against the freemen of the African company.

A Bill was ordered in for regulating the future elections of committee-men for the African Company.

May 20. On the motion for the third reading of the Bill,

Mr. *Edmund Burke* said:

Sir; when any new regulation is to be made, or any new act to be passed, I would have it weighed and examined upon the principles of the constitution, and, if found inconsistent with them, rejected. Let us pursue this plan in the present instance. This Bill would have us confine the right of election to those who actually do trade, or intend to trade to Africa. What is the consequence of this alteration? You cut off at once above twelve hundred voters, who under the faith of an act of parliament purchased the right of voting. And for what reason are they thus to be stripped of their franchise? What crime, what misdemeanour is alleged against them? Why, truly, it is insinuated that they did not pay their corporation fees out of their own purses, but were rendered free at the expence of other men. But, Sir, is a whole body of men to be disfranchised upon mere surmise, or suspicion, however strong? I hope we understand the constitution and the principles of equity better. Had no better proof of corruption than is now exhibited been given in the case of the electors of New Shoreham, I certainly would never have consented to their disfranchisement; for such it was in fact, though not in name.

Besides, Sir, we ought to consider that thus we should take away not only the right of those who are no traders in any branch of commerce, but also that of many respectable West India merchants,

some of them members of this House, who are as deeply interested in the success of the African trade as the very men that fit out ships for the purchase of negroes. Is no respect to be paid to such persons? Are we to cut off the good with the evil? Ought we not rather to imitate the pattern set us in sacred writ, and if we find ten just persons among them, to spare the whole? Before we take such a step, we ought to enquire into the origin and institution and nature of the African company, and to see whether this plan be conformable to the spirit and tendency of the Act by which it was established. The trade in question, though put under the direction of a company, was intended to be free and open. Hence the qualification of an elector was fixed at a low standard, at 40s. of corporation fee, that it might resemble our county elections, and be open to as many as possible, upon supposition that the more numerous the electors, the more difficult bribery and corruption. The East India company being upon a different footing, being intended for a monopoly, different maxims prevailed in its erection. The qualification of an elector was raised to the sum of 500*l.* of capital stock. Let us not, then, counteract the wisdom of our ancestors, who considered and re-considered this subject, nor place upon the footing of a monopoly what was intended for a free trade.

It is contended, that the trade in its present state is but a monopoly; and that this Bill is intended for remedying that grievance. But, while we attempt to remedy one grievance, let us take care not to introduce a worse in its place. Of the present freemen there are but thirty that are real traders. If the sole management of the trade be left to them, the committee will be chosen by rotation out of their body, and thus we shall have, in Mrs. Macaulay's words, 'a perfect round of rotation,' and a monopoly with a witness. No wonder, then, that the meeting of the West India merchants petition that the matter should be put off for three months, till they have time to consider and report to the House how their interest will be affected. If neither they nor any other merchants, whose business it is to prevent the extravagant price of negroes, are admitted not so much as to vote, much less to a seat in the committee, the importers of slaves may set their own price, and raise what sums they please upon your planters. Would not this necessarily depopulate

your colonies, and enhance the price of sugars? Nothing is more evident.

But perhaps it will be said, the trade has been mismanaged; it has dwindled to nothing in the hands of the committee-men chosen by the present freemen. Nothing can be farther from the truth. Before the trade was put upon its present footing, only 19,000 negroes were imported. To what number do they now amount? To 50,000. Does this circumstance indicate mismanagement? Quite the reverse. I would therefore be very sure of the principles upon which I proceeded, before I would make any alteration in a system under which the trade has grown to this magnitude; nor would I favour one party in prejudice of the other, when the election is so nigh.

Mr. William Burke, Bamber Gascoyne, and other members, held the same language.

Mr. Williams said:

Sir; that the African trade is of consequence, is allowed; that it calls for reformation, is equally allowed; the mode of accomplishing this desirable object forms the difficulty, and has produced a disparity of opinion; it is my desire to conciliate, because I think the present law carries in it a self-evident absurdity. In matters of opinion a disparity may arise and in some measure be justified; but how stands the present case? does it not confound what universality of consent has always clearly distinguished? Reality and speculation have never been reported to be of the same import; the contrary is generally assented to among all ranks of men. What says the present law? That the man who intends to trade, and paying forty shillings, shall have a right to vote for committee-men. Does this not plainly blend together what mankind always separated? Law may enforce an absurdity, but wisdom alone can give it respect. Consider upon this very point before you, concerning the difference of intending to engage and actually engaging in the trade; the one carries such facility, such convenience to people, that hundreds are found in one class—very few in the other: this will at once shew the fallacy of this qualification for voting for committee-men; this fallacy is both a disgrace to the name of law, and creates a real injury to people actually engaged in the trade to Africa; they engage their time, fortune, and lives, and yet upon the exercise of those franchises given, or which ought to be

given for their encouragement, they find to their sorrow, that six times their number claim an equal privilege—men who have been paving the streets, while they have been ploughing the ocean. Whatever may be given by way of deference to good intentions, I will most readily give; but what in other cases would be deference, is in the present credulity. Why not actually engage? No, there is one circumstance which obstructs the present intention; that obstruction may continue; the design, however sincere, may be frustrated: the African trade has been but too much neglected; other nations know the importance of it: their vigilance to improve on our indifference, will soon shew the difference between reality and intention. Consider before it grows too late the consequences of that trade; how must it add to the consumption of your manufactures, the increase of your navigation, the support of your colonies? Will you then give up to a few individuals that attention the public has so just a claim to? Those very individuals will not be excluded from it, if they seriously mean to engage in that track; whenever they do, they will rejoice at your proposed regulation; they will rejoice to see a distinction made between them who trade in merchandise, from such who trade in idle jobs. It is said that the trade is of a fluctuating nature, that few men of fortune have ever engaged in it. Good God! will any man infer, that, because this trade has for want of proper regulations been reduced to a melancholy condition, the present system ought to be continued, which has brought it into such? Does it not appear to be absolutely incumbent on us to change that system of measures a continuance of would render fatal? But some gentlemen seem to think, that the public is the pretence, the real object is private advantage—to be plain—that the approaching election is the end of our wishes. In answer to this I mean nothing of a private nature; I have not the election in my mind to prove my assertion: I declare my ready consent to the delay of the execution of this new regulation, till the approaching election is over;—after that, let the reformation take place.—I shall content myself with removing that circumstance from future elections, which would not only contaminate all such, but support an absurdity, which in time would make the trade a matter of derision to other nations, and to our own a reproach.

Sir William Meredith :

Sir; I am accused in this Bill of attempting to invade men's legal franchise, a right which they purchased under the faith of an act of parliament. Were that the case, I should no doubt be culpable, provided some great advantage were not to arise to the nation from the invasion. But the fact is otherwise; I am invading no franchise, no right. I only contend for enacting a new law to explain the meaning of an old one, under which most of the present freemen have fraudulently crept into the rights of other men. Consult the Act, and you will find that the parliament, that passed it, had none in contemplation but traders, but men who actually purchased or imported slaves. This being the state of the case, it is evident that I attempt no alteration, no innovation; I mean only to oust men from premises to which they have no legal nor equitable title. Not that I object to real merchants, much less to West India merchants; were they and they only included with the real importers of slaves into the colonies, I cannot see any reasonable objection against them. But that men who are no traders at all, who understand nothing of this trade, nor of any other, should by act of parliament be allowed to appoint the guardians of a branch of business upon which the prosperity of our sugar colonies depends, is an absolute solecism in politics. It was never the meaning of the original Act; nor is it consistent with the nature of trade.

It is indeed alleged, that the trade has grown under their hands. But, Sir, there is a fallacy in the argument. Though the trade upon the whole has increased, it is not owing to the good management of the committee. Where their influence extends, and it extends where the best, the most hardy and useful slaves are found, the trade has greatly declined. Instead of employing the 300,000*l.* allowed by government in presents to the princes of the country, in order to induce them to sell slaves, there is reason to apprehend that much of that sum is laid out in purchasing slaves as private property. Certain it is, that the present committee-men make a scandalous use of their power. By means of their intelligence and correspondence, and presents made with the public money, their ships are freighted with slaves in a fortnight or three weeks, while those of others, not less meritorious, are obliged to

wait thirteen months upon the coast; a delay by which the expence of the voyage is greatly increased, and the slaves are frequently lost by sickness and other disasters. My constituents, who had five eighths of this trade in their hands, pressed by this grievance, have many of them sold off their ships, and dropt the business. Must not this event necessarily distress the colonies? The price of slaves must certainly rise, except you apply the proposed remedy.

Mr. Oliver and several other gentlemen, perfectly acquainted with the nature of this trade, and at the same time freemen, agreed with sir W. Meredith in opinion, and declared that the behaviour of the committee was so scandalous, as to demand this remedy; and they were willing, for the sake of the public good, to give up their franchise.

Upon a division, 25 were for postponing the matter for three months, and 23 against it. Of course the Bill was lost.

Debate in the Commons on the Lords' Amendments to a Money Clause in the Corn Bill.] June 3. The Corn Bill was returned by the Lords with amendments, and particularly with this amendment, 'That no bounty should be paid upon exported corn.'

Governor *Pownall* said, that though the alterations were trifling and chiefly grammatical, yet he thought them, upon the whole, real improvements, and therefore would have made no objection to them, had not one been a flagrant encroachment upon the privileges of the House; that as the Lords, forgetful of their duty, had interfered in raising money by inserting the words, 'that no bounty should be paid upon exported corn,' he must move the House to reject the Bill.

Mr. *Whitworth* said, that though desirous of a good understanding between the two Houses, he must second the motion, as the Amendment violated a privilege which had always belonged, and he hoped always should belong, to that House.

It was then urged by other gentlemen, that no good understanding did subsist between the two Houses, and that therefore they ought the more to resent this affront and injury.

The *Speaker* upon this declared, that he would do his part in the business, and toss the Bill over the table.

Mr. Edmund Burke said:

Mr. Speaker; I wish that there was not only a good understanding between the two Houses, but I also wish that there was a good understanding in one of them; and I wish both for the same reason, for the better dispatch of the public business. Sir, when there is not an easy intercourse between the two Houses, when their doors are shut upon the members of each other, it is impossible to impart those mutual lights which are frequently necessary in the progress of a Bill. For want of this communication and this knowledge, I aver that three Bills were lately lost in that House, and among them this Corn Bill and the Dissenters' Bill. The Lords do not know what is going forward in this House; and, what is worse, they do not understand the principles of the constitution.

Sir, this privilege, which they have now invaded, is a known and avowed right inherent in this House as the representatives of the people. For what do the Lords say, when they attempt to invade this privilege? Why, Sir, they plainly say to us and to the people, you shall no longer tax yourselves. Can liberty exist a moment, if we allow them to lay their sacrilegious hands upon this holy of holies, this palladium of the constitution? The most servile tool of administration will not have the face to defend this encroachment. What shall we say was the cause of this strange proceeding? Shall we call it absolute ignorance of the constitution, or an insidious trial of our ductility and acquiescence? I have seen enough of their conduct to make me think the former not impossible; and I know too much the sympathy subsisting between them and administration to deem the latter improbable. Suppose, then, we compound the matter, and ascribe this attempt partly to ignorance of the constitution, and partly to ministerial management. In so doing I believe we shall not be much wide of the mark.

Sir, among the various attempts made by administration to overturn the constitution, that of taking from the people the power of taxing themselves would not be the least. The right of election being violated, there remained but this, for which the right of election was originally preserved by the people. I hope, however, we are not yet so infamous and abandoned as to relinquish this essential

[VOL. XVII.]

point. It is not that I mean to make the breach between the two Houses wider; I have already endeavoured to shew, that, for the sake of the public, we should study harmony and unanimity. Nor is it my desire that we should return injury for injury. If we have received a base affront from the Lords, let us not copy their example, but set them a pattern of what their conduct ought to be. There is in the reciprocation of base affronts something that makes a liberal mind revolt. Who does not think himself degraded by turning upon a Wapping landlady, and giving her reproach for reproach? You cannot have any pleasure in kicking and being kicked. Let us not, then, imitate so shameful an example, but leave our doors open even for the peerage. I do not say that they have deserved this at our hands: they have not: but let us forgive their weakness as a prelude to a reconciliation, and to the renewal of the old and regular manner of transacting business, an effort for the recovery of which we owe to our constituents, and to our own dignity.

But why do I talk of our dignity? That, Sir, is lost. I only contend for this point, as a necessary preparative to the proper management of the public business. Had gentlemen any feeling for the honour of the House, would they submit to the disgrace of waiting three hours in the lobby of the House of Lords, among their lordships' footmen? Sir, this has been my fate, when ordered by the House to carry their Bills to the Lords; and I do not speak of it out of any personal pride, or as an indignity to myself, but as a flagrant disgrace to this House, which I apprehend is not inferior in rank to any other branch of the legislature. On the contrary, I hold that they are co-ordinate, and that no one is to claim a superiority. If, therefore, the Lords keep the House shut for fear of being exposed or disgraced by the publication of their speeches or opinions, or for any other cause, it will be necessary for this House, in support of its own dignity, to appoint particular officers for carrying Bills to the upper House. Should they oblige us to sacrifice the public interest, we are under no necessity of sacrificing farther than we have our importance in the state. Though they frequently alter bills merely to shew their power, we need not suffer them to proceed to the annihilation of all our authority.

Mr. Ongley said, that if the Lords, when informed of what now passed, did

[2 L]

not act with more discretion, and restore things to their ancient footing, it would be no improper object of consideration next session, whether the members of either House have not a right, an ancient and constitutional right, to be present at the deliberations of the other; that to him the relation of the two Houses seemed analogous to the relation between either House and a committee of its own members; that, though none but the members of the committee had a vote, yet every other member had, for the sake of information, and of forwarding the service of the public, a right to be present.

The Bill was rejected *nem. con.* and the Speaker tossed it over the table: several of the members on both sides of the question kicking it as they went out.

The Game Bill, in which the Lords had made alterations, was served in a similar manner. Upon this occasion it was said, that money levied by way of penalty could not possibly be considered in that light; but it was replied, that it was not the sum to be levied, nor the manner of levying it, but the precedent which it might establish, and the doctrines and principles it might hereafter maintain, that were the matter of consideration; and that it was not for 40s. that the glorious Hampden contended, but for the properties, privileges and liberties of his countrymen. This Bill, too, was thrown out with extraordinary marks of contempt.

The King's Speech at the Close of the Session.] June 10. The King came to the House of Lords and put an end to the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I cannot put an end to this session of parliament, without expressing the satisfaction I have felt in observing the temper and the prudence which have governed all your deliberations during the course of it, and without returning you my particular thanks for the fresh proof you have given of your affectionate attachment to me in the additional security you have provided for the welfare and honour of my family.

"I can with great pleasure acquaint you, that the disposition of the powers of Europe give me the strongest reason to believe that this nation will not be disturbed in the enjoyment of the blessings of peace.

"Gentlemen of the House of Commons,
"I thank you heartily for the supplies which you have granted with so much cheerfulness and dispatch, and for the ample provision you have made for every branch of the public service; and I see with pleasure and approbation, that you have, at the same time, been able, by a proper disposition of the public money, to make a further progress in reducing the national debt.

"My Lords, and Gentlemen,

"I make no doubt but that you will carry into your respective counties the same principles and the same zeal for the public good, which I have experienced from you in parliament; and that you will continue to exert your best endeavours to cultivate and improve a spirit of harmony and confidence amongst all ranks of my faithful subjects. Let it be your constant care to convince them that without a due reverence for the laws, and a cheerful obedience to just authority, neither their civil nor religious rights and liberties can be enjoyed in comfort or security: and to assure them that I consider their interests as inseparably connected with my own; and that I am, and have ever been, persuaded that the prosperity and glory of my reign, must depend on my possessing the affection, and maintaining the happiness of my people."

The Parliament was then prorogued to the 11th of August, and was afterwards further prorogued to the 26th of November.

SIXTH SESSION

OF THE

THIRTEENTH PARLIAMENT

OF

GREAT BRITAIN.

*The King's Speech on Opening the Session.**] November 26, 1772. The King

* "The time that elapsed during the recess of parliament, was not productive of any public events, either foreign or domestic, that materially affected the interests of this country. The negotiations that were carried on at Foc-zani gave room to hope for the conclusion of a peace between the belligerent powers; and if it proved otherwise, there was no reason to imagine, from what had hitherto appeared, that we had any intention to be involved in the consequences of the war, unless some very ex-

came to the House of Peers, and re-opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I should most willingly have consulted your private convenience by allowing you a longer recess from business, if I had not thought that some very important parts of the public service required the immediate attention of parliament.

"It is impossible that I can look with indifference upon whatever concerns either the commerce and revenue of the kingdom at large, or the private rights and interests of considerable numbers among my people; neither can I be insensible how materially every one of these great objects must be interested in the maintenance of the credit and prosperity of the East India Company. When, therefore, I received information of the difficulties in which that Company appear to be involved, I determined to give you an early opportunity of informing yourselves fully of the true state of their affairs, and of

extraordinary change took place both as to its nature and extent, which was not yet to be foreseen. At home, administration had carried every thing with such irresistible force in the last session, that opposition seemed to be reduced to little more than a name; and could afford only a weak and unavailing dissent, to measures which it was not capable of impeding; whilst its members were weary of fruitless exertions, in which the inequality was so great as scarcely to admit of a struggle.

"With respect to parties, the remains of the old whig and revolution interest, which we have already frequently taken notice of, under the name of the Rockingham party, although there were some actual desertions from them and a doubtful appearance in a few of those that remained, they were, in the main, rather better united than the rest. They, in general, continued pertinaciously in their old opposition to the system and measures of the court, and firm in the support of their leader. The party which is thought particularly attached to lord Chat-ham did not seem much nearer to a political arrangement with administration; though they agreed with them in many of the measures, or at least in some parts of many of the measures of this session. This circumstance added extremely to the weakness of opposition. We have formerly shewn, that several of the late Mr. Grenville's friends, soon after his decease, went over to the court; some of them, however, have still continued on their old ground, and have accordingly acted occasionally with the other parties who dissent from administration.

"In this state of security, no change had taken place in administration, which could

making such provisions for the common benefit and security of all the various interests concerned, as you shall find best adapted to the exigencies of the case.

"I have the satisfaction to acquaint you that there is reason to hope that the war which has so long unhappily prevailed in one part of Europe is now drawing to a conclusion; and although there was no probability of our being involved therein, yet, the discontinuance of those troubles will afford a fairer prospect of the duration of peace, which I trust the alterations that have happened in Europe will not in their consequences affect.

"I continue to receive from foreign powers the strongest assurances of their pacific dispositions towards this country; and it shall be my constant endeavour to preserve the general tranquillity, as far as is consistent with the honour of my crown, and the interests of my people.

"Gentlemen of the House of Commons,

"It gives me much satisfaction that the continuance of peace has enabled me to proceed in the reduction of the establish-

either affect its internal strength, or its outward conduct. The earl of Hillsborough, indeed, had resigned his office of secretary of state for the American department, together with his seat at the head of the board of trade, both of which were bestowed on the earl of Dartmouth, who upon this occasion quitted his old friends in opposition. This resignation was not, however, the effect of any difference with the court; that nobleman having quitted his places in great good humour, and being immediately after promoted to an English earldom. But as those measures, which had caused the greatest dislike and uneasiness in the colonies, had originated in lord Hillsborough's administration, this change was by many considered as conciliatory with respect to America. Some other changes which afterwards took place, had as little effect upon the general system of government. The earl of Harcourt succeeded lord Townsend in the government of Ireland, and the latter was appointed master-general of the ordnance; the death of the earl of Albemarle afforded an opportunity for promoting general Conway to the government of the island of Jersey; and sir Geoffrey Amherst, who succeeded him in the ordnance, was soon afterwards called to the privy council. Lord Stormont was appointed ambassador extraordinary at the court of Versailles, in the room of the earl of Harcourt; and, upon the death of the earl of Litchfield, lord Edgeworth having got the band of gentlemen pensioners, Mr. Jenkinson was appointed a joint vice-treasurer of Ireland in his stead, and Mr. Charles Fox a lord of the treasury, in the room of the latter." *Annual Register.*

ment of my naval forces; but you will, I am confident, agree with me, that a considerable strength at sea must be ever necessary for preserving the reputation and power of my kingdoms.

"The proper estimates for the ensuing year shall be laid before you, and whatever supplies you may grant shall, on my part, be managed with the strictest economy, and applied with the utmost fidelity.

"My Lords, and Gentlemen,

"I cannot but feel the most real concern, that the produce of the late harvest has not given us the relief which we had hoped for, in respect to the dearth of corn. As far as human wisdom can provide for alleviating the distresses of the poor, I am persuaded, your attention will not be wanting: and you cannot gratify me more, than by calling upon me for my concurrence in whatever may contribute to the true welfare and happiness of all my people."

The Lords' Address of Thanks.] His Majesty having retired, the duke of Chandos moved the following Address, which was agreed to:

"Most Gracious Sovereign,

"We your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, return our humble and most unfeigned thanks to your Majesty, for your most gracious Speech from the throne.

"We gratefully acknowledge your Majesty's goodness, in the gracious assurances we have received, that your Majesty would have consulted our private convenience, if some very interesting public concerns had not required the early meeting of parliament.

"Your Majesty may be assured, that we will apply ourselves diligently to whatever may concern the commerce or revenue of the kingdom, or the rights and interests of any part of your Majesty's subjects; that we are thoroughly convinced the affairs of the East India Company deserve and require our most serious consideration; and that we will not neglect an object of such national importance.

"Permit us, Sir, to express the happiness we feel at having reason to hope, from the communication your Majesty has been pleased to make to us, that the war which has so long prevailed in one part of Europe, is drawing to a conclusion, a happiness that is greatly increased by the additional prospect it affords of the duration

of peace, which we trust, the alterations that have happened in Europe, will not in their consequences affect, being ever firmly persuaded, that his Majesty's uniform endeavours to preserve the general tranquillity will be directed, on all occasions, by a due regard to the honour of your crown, and the interest of your people.

"With hearts deeply affected, we learn that the produce of the late harvest has not given the relief so essentially necessary to the poorer sort of your Majesty's subjects; and conscious that we can do no act so acceptable to your Majesty, as exerting our utmost efforts to contribute to the ease and comfort of all your people, we beg leave to assure your Majesty, that this object, which your paternal care and tenderness have so particularly pointed out, shall engage our utmost attention."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I thank you for this dutiful and affectionate Address. The zeal you express in it for the honour of my crown, and the rights and interests of my people, gives me the highest satisfaction. I firmly rely that all your deliberations will tend to such measures as shall be most conducive to the great objects you have before you: among these, I am sure, you will not forget to provide for the distresses of the poor, as far as it is in the power of human wisdom to alleviate them."

The Commons' Address of Thanks.] The Commons being returned to their House, the hon. Mr. Fitzpatrick moved an Address to his Majesty in the usual form, being an echo to the several paragraphs of the Speech. He prefaced his motion with a speech, of which the following abstract contains every thing material. That the affairs of the East India Company were in the most alarming and ruinous situation; that the immediate and speedy interposition of parliament was become highly indispensable to their preservation; that the Company had agreed with government in 1769, to pay them the sum of 400,000*l.* when the dividend was made at 12 per cent. and in proportion till it fell to six, when that payment was to cease: that that being the case, and the present inability of the Company so notorious, it would be necessary to make some provision adequate to that deficiency; that so far from the Company being able to

make a dividend of either 12 or 6 per cent. at the end of the next half year, it would be an act of the highest fraud in the directors to divide a single shilling: that the war, which had continued for some years between two of the greatest powers of Europe, was happily approaching to a conclusion: that, however, that was but a matter of little or no consequence to Great Britain; as, thank God, the ideas that formerly governed the British councils in matters of this nature no longer existed: that the changes which had taken place in other countries still concerned us less, except to point out to us how happy we were in being governed by a prince who prized his people's liberties above every other consideration whatsoever. He next expatiated on the various advantages arising from the enjoyment of a ten years peace, and the happy prospect of its long continuance. Here he went a little out of the way, to compliment the memory of his deceased uncle, and to remind the people of England what everlasting obligations they were under to him, for the happy enjoyment of these last enumerated blessings. He then concluded, by remarking, that the present appearance of a scarcity of all kinds of grain merited the utmost attention of the legislature, to whom only they could properly look for relief; and he doubted not but their own feelings would suggest every thing that human wisdom could suggest to alleviate and obviate the present impending miseries; that however human wisdom was in many instances limited, and must submit to the over-ruling decrees of Providence, and that he should be sorry that the people in general expected too much from parliament, or that it was in its power to controul Omnipotence itself.

Dr. Burrell:

I rise, Mr. Speaker, to second the motion of the hon. gentleman for an Address, to return his Majesty thanks for his most gracious Speech; the heads of which, as already opened, are so proper in every respect, that I trust they will meet with the unanimous approbation of the House; they have been urged with so much ability, and spoken to so fully, that I should hold myself inexcusable in taking up your time, if the usual forms of the day did not call for a few words on the occasion; but as custom pleads my excuse, and insures me your indulgence, I will

trespass on the patience of the House, and submit to their consideration the reasons which have occurred to me, for thinking his Majesty is, on this occasion, entitled to our warmest acknowledgments: and I am the rather encouraged to offer my sentiments from the satisfaction I have in knowing, the defects of my arguments will be amply supplied by other gentlemen, whose consummate abilities, great experience and extensive parliamentary knowledge, will entitle them to the attention, and insure the approbation of the House.

The important matters in his Majesty's speech offered for our consideration, at once evince his paternal care for his people's welfare, and the urgent necessity of our meeting, at this early and unusual season, in a time of peace.

The embarrassed situation of the affairs of our East India Company, is no secret here or abroad: it is in every mouth, in every public paper; a sufficient ground for domestic alarm and foreign satisfaction;

'Hoc Ithacus velit, et magno mercentur Atridae.'

This is an object of such magnitude, that every member of this House who thinks of its importance, and the difficulties which attend it, must tremble at entering on the discussion; yet entered on it must be, and without delay. If I may presume to speak my opinion, I will tell the House, this is a business which will demand their coolness and candour, in a dispassionate investigation, and call for all their firmness in decision: it is not only our sovereign points it out to us, but it is the demand of our country and the voice of the whole nation; both in its immediate and extensive consequences, a more important charge was never offered to your care.

Whether a charter, even supposing it unbroken, is so sacred a thing, that the state is to fall rather than infringe it, is a question, which I will not suppose you can ever be called to decide on. But I apprehend, without mentioning previous or consequent questions, we shall find it our duty to enquire, how a trade so circumstanced should fail? How territorial revenues, nearly equal to our annual income, have been squandered? Whether folly or misfortune, indiscretion or crimes, have brought such a company into such a state? I mean not, I protest, to insinuate criminality against any person or persons; I speak in the abstract, and have not in my

contemplation any man, or set of men whatever: some few of the gentlemen who compose the present direction, I have the honour of knowing, and highly esteem; I sincerely believe them men of integrity and abilities, and doubt not they will appear so: but, if in the developement of this great business they should prove otherwise, neither friendship, or the nearest ties of blood, should stop my voice from making them atoning sacrifices to an injured country.

Let gentlemen recollect, that this is no trifling question between ministry and opposition, whether men of this or that description shall ascend the thrones of Leadenhall-street. It is the stake of empire; and on the issue, perhaps, will be determined, whether Great Britain is to be the first nation of the world, or a ruined and undone country. This is my sincere opinion, in which I think I am well warranted.

When we recollect the riches brought from the East Indies, the duties and excises on the imports, and what will be the fatal consequence of the annihilation of them; let every creditor of the public think and tremble for the funds, that pay the interest of our enormous debt.—Let the statesman and merchant reflect on the many collateral branches that spring out of this great tree of commerce: let every one recollect, how intimately his fortune and estate, his comfort, and if I may so call them, his innocent luxuries, are connected with this vast object of trade; and then say, whether his Majesty does not deserve our most sincere and unanimous thanks, for rousing us from our lethargy, and bidding us rescue from inevitable ruin our Indian empire.

However impolitic, it would be an honest wish, that it had never been in our power to use these words, “our Indian empire.”

Great and powerful was Spain, before she waded through blood to the sovereignty of Mexico and Peru. Happy perhaps it had been, and I am sure honourable, if the military achievements of Britain had never stained the archives of Delhi. If report has not exceeded the bounds of truth, the Company would have been in no worse situation, if the wealth of Bengal had never been wrung from the hands of its innocent possessors.

But I find, I am hurried by the copiousness and importance of the subject beyond my intentions, and that I am enter-

ing farther than perhaps is necessary, into a business that must shortly be brought before us.

The information his Majesty has given us, of a prospect of permanent peace, and his own determination to preserve it, as far as is consistent with the honour of the crown, and the interest of his people, deserves our utmost gratitude.

It has been the peculiar happiness and fortune of these kingdoms, ever since his Majesty's illustrious House has filled the British throne, that this country has had no wars, but what the nation has clamorously called for. Both our late and present sovereigns have wept the laurels they wore. They never availed themselves of as brave a nation as ever adorned the annals of mankind, to attack, on every frivolous pretence, their defenceless neighbours; or entered into impious confederacies, to divide, without pretence, the kingdoms of unoffending potentates.—Their ambition or passions have never led them to sacrifice their subjects' blood for conquest, or their rights for power. We have no occasion to look far from home, or many ages back for instances to prove our own happiness; and how much it is our duty to make the crown sit easy on the head of our sovereign.

Peace ought ever to be the object of commercial countries, and most especially the object of Great Britain, whose experience has been dearly purchased. Exhausted as she was, and heavy though her debt, we see what improvements have been made in a few years tranquillity; a few years more, notwithstanding our uncertain climate, will render her the most envied spot on the globe; uniting the arts of Greece with the greatness of Rome, under a government, the noblest that human wisdom ever framed, if the factions of the great, and modern patriotism, do not hurry it to an untimely fate.

My profession has led me to the more particular contemplation of other laws; the laws of ancient Rome, and her later empire. Wisdom and policy are often to be admired in them; but let no one suppose, that professional prejudice can reconcile me to imperial edicts, and Papal decrees: I contemplate with pleasure our Saxon temple of liberty, built on such foundations, as can only be destroyed by our own madness. If that, Sir, is a distemper, which is to grow out of peace; then welcome war, that is to save us from such a parricide.

However national policy may be interested in seeing great powers exhausting themselves, it must give pleasure to every humane considerer, to hear a speedy period will be put to the destructive war between Russia and the Porte: who can think without horror of the desolation of some of the finest countries in Europe, which are now groaning under the three great afflictive scourges of mankind, war, pestilence, and famine!

In abstract reasoning the truest political wish for a great commercial people is universal peace: that the fancied wants of numbers, and their riches to procure them, may give a full scope to the ingenuity of manufacturers, and native produce in a course of trade.

By the blessings of Providence, this country is neither the scene of pestilence, or war, and I hope it will escape famine; yet we have too much reason to apprehend great scarcity, and enormous prices of all sorts of provisions. Whatever relief the wisdom of parliament can afford their distressed fellow subjects, and indeed all ranks of people, will I am certain not be wanting, or our grateful sense of his Majesty's goodness, in recommending it to our especial attention for his gracious promise of a ready concurrence. The dispensations of Providence we must receive with humble resignation. Our harvests this year are undoubtedly very short; however, I trust the wisdom of this House will find out some methods of relief, though a remedy may be impossible. I fear there is some radical evil, which requires a cure: we formerly exported immense quantities, to supply the wants of our neighbours. For several years we have lived under the dread of famine ourselves, with a prohibited export. Whether it arises from luxury, from an alteration in the general mode of living, or from whatever other cause; it becomes your wisdom to investigate, and your policy to remedy.

I am ashamed of having trespassed so long on the indulgence of the House, and will trouble them no farther than by seconding the motion of the hon. gentleman.

The following Address was then agreed to:

"Most Gracious Sovereign;

"We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain in parliament assembled, beg leave to return your Majesty our humble thanks,

for your most gracious Speech from the throne.

"We acknowledge, with the warmest gratitude, your Majesty's great goodness, in your constant attention to whatever concerns either the commerce and revenue of your kingdom at large, or the private rights and interests of considerable numbers among your people. And we return our most dutiful thanks to your Majesty, for having given us an early opportunity of informing ourselves fully of the true state of the affairs of the East India Company: and we assure your Majesty, that, impressed with a due sense of the great importance of the business, we will, without delay, proceed to the consideration of it; and endeavour to provide, in the most effectual manner, that the nature of the case will admit, for the common benefit and security of all the great and weighty interests recommended to our care by your Majesty.

"Your faithful Commons cannot but rejoice to hear that your Majesty has reason to hope that the war, which has so long unhappily prevailed in one part of Europe, is now drawing to a conclusion; and that the favourable prospect of the duration of peace, which the probability of this event affords us, will not be affected by the alterations which have lately happened: and we feel the highest satisfaction, at the assurances, which your Majesty continues to receive from foreign powers, of their pacific dispositions towards this country; and at the same time we most gratefully acknowledge your Majesty's gracious declaration, that it will be your constant endeavour to preserve the general tranquillity, as far as is consistent with the honour of your crown, and the interests of your people.

"Your Majesty may be assured, that your faithful Commons will cheerfully grant such supplies as the services of the ensuing year shall require: and although we are convinced, that it must ever be for the interest and reputation of this country, to have a considerable strength at sea, yet we learn with much satisfaction, that your Majesty has been enabled, during the course of this year, to proceed in the reduction of your naval establishment.

"Permit us to offer to your Majesty our most humble and unfeigned thanks, for the paternal and affectionate concern which your Majesty has expressed for the distresses which the poor continue to suffer, from the dearness of corn. And we as-

sure your Majesty, that a diligent attention shall not be wanting, on our part, to consider of the most proper means for preventing the encrease of the evil; and for alleviating the present distresses, as far as they are in their nature capable of relief; being persuaded, that we cannot render any service more acceptable to your Majesty, than by contributing to the happiness of all your people."

The King's Answer.] His Majesty returned this Answer:

"Gentlemen;

"I return you my hearty thanks, for this very dutiful Address. The assurances you give me, of your resolution to enter into the immediate consideration of the important affairs which I have recommended to you, afford me great satisfaction; and I have the fullest confidence, that you will endeavour, as far as lies in your power, to alleviate the distresses of my people, who are the constant objects of my care and affection."

*Debate in the Commons on appointing a Secret Committee on the East India Company's Affairs.**] Lord North moved,

* "The East India company had long been amongst the first and most delicate objects of government. From the time that their affairs were first introduced into parliament in 1767, the idea of bringing the business of that company under the immediate inspection of the officers of the crown, had rather been suspended than abandoned. The difficulties, however, attending this scheme, and the large sum of money by which the respite was purchased from government, rendered administration rather supine on that subject for several years; until the impossibility of the annual payment to the state, and the annual increased dividend to the proprietors, roused both proprietors and ministers out of their lethargy, caused the sharpest dissensions amongst the former, and animated the latter to the prosecution of their original scheme of deriving power to themselves, out of the innumerable disorders of the company.

"The abuses both abroad and at home were great and serious. In several things the form of the company's government stood in need of correction. Many thought that the conduct of individuals ought to be diligently enquired into, their vast wealth confiscated for the national benefit, and severe punishment inflicted, as an example to those who should hereafter be entrusted with such power, under such temptations to abuse it. To all this was added, the clamour raised by the discontent of all those who, at any time, had any discussions with

"That a committee of secrecy be appointed, to enquire into the state of the East India Company; and, for that purpose, to inspect the books and accounts of the said Company; and to report to the House what they find material therein, in respect to the debts, credits, and effects, of the Company, as also to the management and present situation of the Company's affairs; together with their observations thereupon." His lordship supported his motion principally on the following arguments: that the present critically distressed state of the Company's affairs demanded the most speedy and effectual relief, which could be procured in no other manner so well as in that now proposed, he being certain that a great progress might be made even before the Christmas recess. That the Company's affairs in general, as well as their secret and confidential transactions, being thus known to a few, it would necessarily follow, that no unfair advantage could be taken. He added, that from the clearest estimate he was capable of making of the present state of the Company, however closely pressed they might be by present exigencies, and embarrassed in money matters, they were,

the company, abroad or at home, and which was propagated in various publications, with a degree of activity hardly credible. It is not improbable, that, in these passionate accounts, the misconduct of the company's servants, and of the company itself, was somewhat magnified. All these publications terminated in one point, viz. that there was no redress for the abuses complained of, but in delivering the whole of the company's political and military affairs into the hands of the crown.

"Indeed there is no form of government so happily framed, nor state of human nature so perfect, in which the power, opulence, territorial possessions, and revenues of that company, would not have excited the avarice and ambition of their rulers, as well as the envy and jealousy of their equals. Mankind will prescribe bounds to wealth, as they would to happiness, if nature had not done it for them; and the continence of power will be considered as more than human, when it can resist the temptations offered by riches, dominion, and patronage.

"We have formerly shewn how the violence and interested views of parties among themselves, first laid open the affairs of the company to the public, and drew the attention of the then administration upon them; we have also seen the consequent measures that were pursued, for the obtaining of a participation of their revenues, until the company were under a necessity of submitting to the payment of the

nevertheless, in point of internal strength and vigour, in full health.

Mr. *Hussey* :

It has been a uniform complaint against ministers, that they at all times

amazing sum of 400,000*l.* annually to government. The company were at that time encumbered with an enormous load of debts, both in Europe and in Asia, nor were they long enough acquainted with their new acquisitions, to obtain a clear knowledge of their net revenues; it would therefore seem that nothing but a false estimation of their own strength, operating with the immediate dread of power, on the one side, and an impatient avidity, incompatible with true policy, on the other, could have induced the former to grant, or the latter to require, any participation in their revenues, until those debts were reduced to a moderate size, and the true condition of the company known.

"The event has too fully justified this opinion; and we have seen the company, in the course of a very few years, brought to the brink of bankruptcy and ruin, in consequence of various mismanagements of their servants, various mistakes of the proprietors of that company, and various errors of administration, and even of parliament. For, though the revenues of Bengal and its dependencies are very great, the stated and certain disbursements, exclusive of contingencies, are also very considerable; of which the tribute to the mogul, and the stipends to the nominal nabob, his duan, and other great officers, amount to about one million sterling annually, besides the expences of collection. A great military force, of near 30,000 men, must also be kept up as a matter of necessity; and the civil establishments, from the nature and distance of the countries, the temper and manners of the people, with other circumstances, must of course run very high.

"To this it may be added, that however great the opulence of Bengal might be, yet, as it was not founded upon any inherent treasure in mines, but depended solely upon the labour and industry of the people, upon commerce, manufactures, and agriculture, it cannot be supposed that it could long bear the sending of between seven and eight hundred thousand pounds sterling of its capital stock, annually out of the country, without a possibility of its return. This was, however, the case at present, the tribute paid to the mogul, and the sum to the government here, being to that amount. With this enormous waste of its treasure, Bengal was also obliged to furnish the company's investments for China in silver, at the same time that its ancient and abundant sources for that commodity from Europe were very much diminished by the change of government and property. It appears then, upon the whole, that, with the best management, and the greatest œconomy, the company was

[VOL. XVII.]

labour as much as possible to keep concealed matters of national concern from the public eye, in order to profit at the expence of that public by an exclusive information. I will give the noble lord who made this motion credit for the upright-

not, with justice to itself and its creditors, equal to the payment of that sum to government, to say nothing of its increase of dividend.

"It must however be acknowledged, that œconomy was not practised, and that, through the rapacity and misconduct of the company's servants, great disorders prevailed in the conduct of their affairs. It is said that expensive wars had been wantonly entered into, and shamefully conducted, to gratify the avarice and interested views of individuals. Vast sums were also charged to have been lavished upon fortifications, which were either unnecessary, or of such an extent, that the number of troops requisite for their defence would always be sufficient to command the field in that country.

"Numberless other grievous complaints were made, many of which, it is to be feared, were too well founded. Pernicious and oppressive monopolies were established; and much wrong and oppression was practised by individuals, in countries where the name of an European was sufficient to authorise any act of injustice to the natives. It was to remedy some of those evils, and to prevent others, that the three unfortunate gentlemen, who are too justly supposed to have perished on board the *Aurora*, were sent out in 1769, as supervisors to India. The fate of these gentlemen was undoubtedly one of the greatest misfortunes that could have befallen the company. They must have remedied many evils; and if it were admitted that they might have created some, still the benefits would have been great; but in no instance of so much consequence, as in removing the pretences for that fatal interference, which, through the misconduct of its servants, government has since assumed in the affairs of the company.

"During this state of disorder and misconduct abroad, the company was agitated by violent disputes. It was necessary to communicate with government, to whom the non-payment of the 400,000*l.* annually was to be accounted for, and where forbearance, at least, if not assistance, was to be demanded. The directors, and a strong body of the proprietors, were in a continual state of hostility. The former were charged with acting immediately under the influence of the court, to which it was said they exposed the affairs, and sacrificed the interests of the company; and indeed it appeared in some instances that they had either been imposed upon themselves, by the ambiguous expressions and conduct of the minister, or that they joined in the deception of their constituents.

"Though the company had been drawn into the hands of administration, and their affairs

[2 M]

ness of his intentions; and will not charge him with any sinister views of stock-jobbing in proposing to make this a secret committee. Certain I am, however, that those who are entrusted with this business, will have it in their power to raise ground-

under the cognizance of parliament, so early as 1767, nothing had been done in all this time towards their regulation or settlement, except the restricting of their dividends, rescinding their acts, and the obtaining from them, without any visible equivalent, immense sums of money, which were far beyond their abilities. No order was taken, conformable to the amazing change in their condition, for the regulation or government of their new acquisitions; nor no new powers of control lodged in their hands, to counterbalance the immense trusts which they were now under a necessity of reposing in their servants; nor to restrain or prevent those evils which must naturally attend the quick transition, from the management of a counting-house to the government of an empire.

"While the many were surprised at this apparent inattention to matters of the utmost importance to the nation, some of those who were the most versed in political manœuvres, pretended to foresee the consequences that have since taken place, and argued that such glaring disorders could not have been overlooked; that they were permitted only to render the company odious through the faults of its servants; to shew its incapability of governing such great possessions; and to prepare the nation for the changes that were to follow.

"However this was, the mal-administration in India, with all its consequences, were suffered to pass without notice or observation; and we have already seen in the transactions of 1772, that, though the affairs of the company were evidently alluded to at the opening of the session, in the speech from the throne, they were nevertheless suffered to lie over till near its close, when a Bill was brought in by the deputy-chairman, for enlarging the controlling powers of the company with respect to their servants in India. The Bill came to nothing in that session. But a member, though in the King's service, not connected with ministry, whether with or without their consent, at length awakened their attention to this object. This gave birth to the select committee, which was armed with full powers for all the purposes of enquiry.

"The company were now alarmed; and were not only apprehensive of a rigorous enquiry, but were too sensible, from late experience, of the inefficacy of charters for their protection, in a contention. It was therefore proposed in the India-House, at the end of that session of parliament, to send out, during the recess, a new commission of supervision, with full powers for the regulation of all their affairs abroad. Some time was however necessarily

less fears and to inspire as groundless hopes, and thus to sport with the public property. Why thus endanger the estate of the widow and orphan? Why thus throw a temptation to do wrong in the way of any class of men? Were I the minister's

spent in bringing this scheme to maturity; it being not less difficult to agree upon the persons who were to be appointed to an office of such great importance, than upon the extent of the powers with which they were to be furnished. At length, six gentlemen were nominated for this purpose; and a general officer of high rank and estimation, who had commanded with great honour in the late war in America, consented to go out at the head of the supervision. The meeting of parliament, however, put an end to the design. It was now generally known, that the affairs of the company would form the principal object of the ensuing session; no other cause could be assigned for its being opened before the holidays; and, as administration had no share in the appointment of the supervisors, though the measure itself had been countenanced by them, it was easy to foretell, that parliament would interpose to prevent its being carried into execution.

"The various results of all the errors that had been committed, and the misconduct that had prevailed both at home and abroad, were now accumulated, and had appeared in their full force during the recess of parliament. The company, with an empty treasury at home, had accepted bills from Bengal to an immense amount, which were now coming round in course of payment; they were at the same time deeply in debt to the Bank for cash borrowed, to the revenue for custom-house duties, and to the Treasury, on the annual stipulated payment, as well as on the article of indemnification for teas, an experiment made in concurrence with government; but by which they were prodigious losers. Though this state of their affairs might have been easily foreseen by those who were at their head, nothing was done to prevent it; the dividend was raised to twelve and a half per cent. the annual tribute to government, accordingly continued, and the India bills, to the amount of 1,200,000*l.* wantonly, or carelessly accepted, without a due attention to the funds by which they were to be paid.

"These distresses took away all the means of defence, and threw the company naked into the hands of administration. The directors were under a necessity of entering into a negotiation with government for a loan to extricate their affairs, at a time when the most hostile measures were, probably, in contemplation. The first lord of the Treasury received these proposals with dryness and reserve. He referred them to parliament for satisfaction. Thus the crimes and misdemeanours of their servants, together with the envy and obloquy which attended their immense fortunes and conduct at

friend, I would dissuade him from such a plan out of tenderness to his as well as to my own character. Both the employer and the employed will be liable to suspicion, let their conduct be ever so justifiable. I know very well that ministers are seldom adverse to stock-jobbing. Their opportunities of early intelligence naturally render it to them a lucrative trade. Yet I do not accuse the noble lord of this foible more than his predecessors. In the present instance, I cannot think him much interested, because, as the Company's books have been already submitted to his inspection, he must be possessed of every lucrative secret; provided he has attentively perused them. And I have not so bad an opinion of his intellects as to imagine that he will need the assistance of thirteen friends to direct him how to speculate in the Alley. Be this as it may, I cannot help reminding him that one of the greatest services which he can render this country is to put a stop to that destructive gaming in the funds, which has lately shook the trading interests, and may, for ought I know, be at this moment secretly working the destruction of thousands more. There has been, indeed, a little intermission; but still it is hard to say where it will end. As for the noble lord's last assertion, relative to the internal health and strength of the East India Company, I leave him and his friend, the mover of the Address, to reconcile the glaring contradictions with what was first affirmed, namely, the Company's not being able to pay a single shilling at their next dividend.

Lord North replied to this generally, but took little notice of any of the objections, further than repeating what he had before said, with this additional circumstance, that great complaints had been made relative to the disclosure of the Company's secrets, by the mode of enquiry adopted last session, from which consequences very hurtful to its interests had arisen; and that he was well informed, one of the principal objects of complaint were those very transactions in the Alley which had been mentioned by the last gentleman as an objection, and of which,

home, became at length blended into one common and undistinguished mass, with the general state of the company's affairs, their territorial and corporate rights, the causes of their present distresses, and the recent application for borrowing money from the public." Annual Register.

he was well assured, for many reasons, that mode of enquiry was a principal cause.

Mr. Mackworth entered largely into the subject. He said he had the highest opinion of the rectitude of the noble lord's intentions, and of his praise-worthy solicitude on the present occasion; nevertheless, he totally differed with him in the mode of relief proposed; first, as to the intended committee being a secret one, and to the number, which was by far short of so arduous an undertaking, as business, pleasure, illness, &c. might, in the course of so long a sitting, prevent the attendance of many of the members; he further remarked, that wisdom should be sought in the multitude; but unfortunately let fall, that this committee of thirteen would come single-handed to engage in this very important work, and would consequently sink under an investigation into such a variety of matter, and in developing the truth in such a complicated and multifarious information.

The words single-handed and thirteen occasioned an universal titter through the House, and it was some time before the Speaker could call the members to an orderly silence.

General Burgoyne stood up to vindicate the late committee, of which he had the honour to be chairman, from those aspersions which he imagined had been obliquely thrown on it by the leader of the treasury bench. The General expatiated largely upon what had been done by the select committee of last year, and contended, that the means now proposed were inadequate to the purposes that enquiry was first set on foot to effect. As I am (continued he) the person who moved for a select and open committee to enquire into the East India Company's affairs, I think myself in some measure called upon to rise on this occasion, and to acquaint the House, that to-morrow I intend to move for its revival. Understanding that a motion for a secret committee was this day to be made, I naturally conceived that it was a tacit disapprobation of, or at least an oblique reflection upon, the mode of proceeding adopted last session. Now I must say, and it is but what I owe to my assessors on that occasion, that, however unworthy the president might be, the virtue and abilities of the other members were such, as conducted the business entrusted to the committee on the most public and disinterested plan. Never was there a

body of men who acted with more coolness, deliberation and attention. And, if this committee is intended to supersede it, I cannot help thinking that it will be attended with more harm than good. I have many objections to a secret committee; but yet I will not vote at all in this case. This is the principle on which I act. It is universally allowed, and indeed it is clearly proved, that the East India Company is rotten to the very core. All is equally unsound; and you cannot lay your finger on a single healthy spot whereon to begin the application of a remedy. In the east the laws of society, the laws of nature, have been enormously violated. Oppression in every shape has ground the faces of the poor defenceless natives; and tyranny has stalked abroad. The laws of England have lain mute and neglected, and nothing was seen but the arbitrary caprice of despotism. Every sanction of civil justice, every maxim of political wisdom, all laws human and divine, have been trampled under foot, and set at nought. At home, there has been egregious mismanagement and variety of roguery. The evils being so extensive and so multifarious, the most extensive enquiry is wanted. Could, therefore, a hundred committees be established, they would hardly be equal to the task of investigating the various crimes and misdemeanors, the multiplied evils that lurk in that corrupted body. Why, then, should I oppose this committee? I will not oppose it; though it seems strange to pass over the enormities of the east, and to institute a minute enquiry into the petty larcenies of Leadenhall. Let me not, however, be misunderstood, as if accusation, not redress, was my object. My first object, when, unconnected with any party, uninfluenced by any motive but humanity and a sense of duty, I proposed the establishment of the select committee, was the removal of the misfortunes under which Bengal laboured, and in which I foresaw this country would finally be involved. If in the course of the enquiry there should appear any crime, which I should think it incumbent upon me, as a member of parliament, to impeach, I am not a man to shrink from my duty.

Lord *North* said, that he had told the General he would not oppose the revival of the select committee, and that he was resolved to abide by his word.

Governor *Johnstone* said:—Though I agree with my hon. friend who spoke last,

and shall therefore not oppose the present motion, yet I cannot help observing, that it is supported by arguments which do not apply. The noble lord, who moved the question, tells us, that the select committee that sat last year left the Company's books open to the inspection of the whole world, and that hence many little secrets transpired, which proved injurious to the Company. Now I do confess that their books remained upon the table of the committee, and were much inspected by me. But yet I never heard that they sustained any damage from this circumstance. If they did, it is incumbent upon the directors now to declare it. Many of them are members of this House. Let them now rise, and specify the injury received. Sir, I am well assured, that this is not in their power; and it was well observed by an hon. member, that it is by secrecy they have been undone. Had their affairs been clearly and candidly stated to the proprietary, and not remained locked up in the breasts of the direction alone, they could not possibly have been reduced to the present dilemma. The wisdom and interest of the many would have got the better of the cunning and avarice of the few. So sensible are the proprietors of India stock now become of this truth, and that in the multitude of counsellors there is safety, that they compelled the directors to leave the Company's books open to every proprietor. Hence there can be now no secrets. Every thing must be now known to Turks, Jews and Infidels. Thus, then, it is clear that the arguments upon which the noble lord laid the greatest stress are not in the present case applicable. But with respect to the dispatch which this plan may produce, I think that argument is applicable, and upon that ground, as well as upon others suggested by my hon. friend, I shall not oppose the motion.

The motion for the Secret Committee was then carried, and on the 28th the following 13 gentlemen were balloted for; viz. Mr. Thomas Harley, Mr. Hans Stanley, Mr. Charles Jenkinson, Mr. Richard Jackson, Mr. Thomas Gilbert, lord Frederick Campbell, Viscount Palmerston, Mr. Nathaniel Ryder, Mr. William Burrell, Mr. Rigby, Mr. Thomas Walpole, Mr. John Eames, and Mr. Richard Fitzpatrick.

Nov. 27. Colonel *Burgoyne* moved that the Select Committee of 31 appointed in April last to enquire into the nature,

state and condition of the East India Company, and of the British affairs in the East Indies, be re-appointed.

Mr. *Seymour*. I am heartily for an enquiry, and sincerely wish a full discovery may be made of the greatest villanies this or any other nation ever heard of. I do not wish to start any objections which may affect the motion of the hon. gentleman; but I own I have my doubts respecting the Secret Committee and the other. I am averse to the former; I am for an open, candid and liberal enquiry, that the nation at large may be informed. A secret committee may clash with and interrupt the other. The same witness may be examined at both; and though I do not positively assert there may be connivances, yet I think it proper to guard against them, as it is very probable there may be. I am therefore for an open, fair, and liberal enquiry, that punishment may attend the guilty, and those who deserve it be rewarded.

The motion was agreed to.

A Doubt settled, that the Acceptance of a Government does not vacate a Member's Seat.] Nov. 27. The *Speaker* said:—At the earnest request of an hon. member (general Conway) I am desired to submit to the House, whether he has vacated his seat by accepting of the government of Jersey. In my opinion (and I beg the House to consider me at present as a lawyer) I do not conceive that the Act [here he read a small part of it] extends to military commissions; for it would be extremely absurd to suppose, as well as troublesome for the officers of either navy or army, on every promotion from lieutenant to a captain, and from captain to major, to be new elected; and I am further confirmed in this opinion by the determination of this House in the case of general Wade, in the year 1733. If any member will give himself the trouble, should he have the least doubt, he will find by the Journals, that the House was unanimous in that case. However, though I have given it as my opinion, yet it was the doubt of the hon. member who was absent, and who begs the sense of the House upon it.

A member desired the commission might be read. The *Speaker* answered, that it was like all other commissions. The member started as an objection, that, from his knowledge of Jersey, the government had the management of civil matters; to

which the *Speaker* replied, so have all governments.—No farther opposition was made.

Debate in the Commons on the Navy Estimates.] December 2. In a Committee of Supply, Mr. Buller moved, "That 20,000 men be employed for the sea service, for the year 1773, including 4,354 marines." He said it was unnecessary, he believed, to explain how such a number came to be requisite; but he was ready, if called upon, to explain the distribution, by which it would appear that the service required that number. He also moved, That 4*l.* per man per month be allowed for maintaining the said men for 13 months, including ordnance for sea service. The hon. A. J. Hervey seconded the motion, and entered into no explanation whatever; and it was ready to pass as a motion of course, when

Mr. *Pulteney* rose and said:

Sir; when the public money is to be granted by parliament, every reasonable precaution should be used to render the disbursement and application of it as fixed and determinate as possible, and to leave as little latitude to the discretion of the officers of the crown as the nature of things will permit. Ministers, even in these golden times, are but men; and men, we know, are fallible. When not confined to strict and marked limits they are apt to transgress. This is the principle upon which our constitution is founded; and it is a principle common to it with every other well regulated system of government. But, if this appropriation of revenue is necessary in the inferior departments of the public service, how much more necessary must it be in the most expensive and essential of all? The department I mean is the naval. Soon after the Revolution the peace establishment of the British navy was fixed at 10,000 seamen. But what was the yearly expence of this establishment? Somewhat more than 800,000*l.* At the conclusion of the last peace but one the establishment was raised to 16,000 men; and the expence increased considerably more than in proportion to the number of men employed. The same thing happened at the peace of Fontenoy: 16,000 seamen, including marines, were voted for the various services on which a fleet in peaceable times can be employed; and the expence amounted to near a million and a half sterling, a sum

almost double of what at an earlier period was deemed sufficient to render us secure from any sudden danger or invasion. Ten thousand seamen were, after the peace of Utrecht, maintained with 800,000*l.* Sixteen thousand seamen, and marines, required almost twice that sum in 1766, though the latter, making no inconsiderable corps, are much less expensive than the former.

Sir; when the nation was threatened with a Spanish war, and 40,000 men were voted, 2,700,000*l.* were expended, though the men were not raised, and though of those raised many were soon dismissed. Last year, when 25,000 men were voted, we were promised by the minister that the expenditure would even fall short of the estimate, and be confined to two millions. I have reason to think this promise will turn out to be a courtier's promise, and that instead of being within two millions, it will exceed even the estimate. What will it be this year? I fear the 20,000 seamen and marines now proposed will cost us little less than two millions.

Sir, when such enormous sums are thus laid out, and when we see that they are continually upon the encrease, and that a given number of men become gradually more and more expensive in the hands of administration, it becomes us as the guardians of the public property to enquire whether there is not some radical error in the plan of naval disbursement. To me it appears that there is a capital mistake in the very manner of voting the naval supply. In voting a sum not exceeding 4*l.* a man per month, four distinct heads of account are confounded in one mass. The wages of seamen, their victuals, the wear and tear of the shipping, and the ordnance, are thrown into one aggregate sum, into one sinking fund, which, if not speedily disentangled and rectified, will, I fear, with the other millstones which hang about its neck, sink this nation. For what is the effect of this indefinite vote? The same as if, in express terms, you gave the first lord of the Admiralty a general unlimited power to employ the money granted in what manner he pleases. Hence the account that annually comes before us is similar to the vote. It is general, specifies no articles, and is in fact no account at all; as there are no particulars which may serve as clues to lead us to the receipt and payments, to the credits and debts that verify the general or gross sum

arising upon the final close of the account.

Nor is the difficulty of tracing the account up to its various sources the only inconvenience. The Admiralty, knowing the impracticability of detecting, according to this plan, any fraud or malversation, will be the more ready to commit abuses. I am the better justified in making this observation, that abuses now exist in the management of the navy. I have my information from a person who has universally acknowledged abilities, has had opportunities of enquiry, and is not interested in misrepresentation. He informs me that the guard-ships were converted into mere jobs, and answered no purposes of defence or security, being neither properly manned, nor docked, nor equipped in any other shape; who will assure us that this is not now the case?

From the same hand I learn, that according to the peace establishment now to be adopted, more men are demanded than will be necessary for the ships proposed to be kept in commission, or called forth in an emergency. Seventeen or at most eighteen thousand seamen will be sufficient for the different services at home, in the Mediterranean, in the West and East Indies. What then will become of the surplus men? They will not be upon the muster, and yet the nation will pay for them. Various are the articles used to make non-effective men pass muster in the sea as well as land service. When 20,000 men therefore are asked, why is not the number of ships to be employed, why is not their rate specified, why is not the detail of every part of the service given, that the House may judge with its own eyes, and not trust to a general calculation made by an interested body of men? Were this scheme now adopted, I have no doubt but the truth of my assertion would fully appear.

Sir, extravagance in the building of new ships is another charge which may, I understand, be justly brought against the Admiralty. And let me tell you that in the sea service, favourite as it is, there may be extravagance. What think you of having so many new ships at once upon the stocks, that before a sufficient number of condemned ships return to furnish a sufficiency of men to navigate them, they rot and decay in the dock or harbour? I have great reason to believe that there are great abuses in this department, and that the negligence of a former board has driven the present into a contrary extreme.

Be this as it will, I am sure that the slow payment of the navy bills is a great disadvantage. The board, I suppose, think that a few months make little difference to the public creditors, and still less to the nation. But the state of the currency of the navy bills ought to have convinced them of the reverse. These bills are at $2\frac{1}{2}$ discount. So much being lost by them, the receivers must in some manner or other endeavour to procure indemnification. How are they to do this? By demanding a higher price in proportion for their timber, their hemp, and their pork, their beef, and other articles. Hence the public goes to market to the worst, instead of the best advantage; and not because due provision has not been made by parliament, but because office, which loves to put public money to a private use, will be dilatory in its payment.

Upon the whole, I think it evident that upon the present plan there may, and indeed there must, be abuses in the naval department. It is therefore full time that we should apply some remedy by introducing into this branch of the public service the practice of appropriation, which is essential to a well constituted revenue. If we should not this year bring the matter to perfection, a trial, however imperfect, will enable us to make a farther progress in another session.

Mr. *Charles Fox* took notice that there was no ground for considering 20,000 seamen as a fixed peace establishment: that, on the contrary, he was well assured, that it was intended, so soon as the fleet could be recalled from the East Indies, to reduce the number now employed on that distant service: that with respect to the mode of voting the money, he could not admit that there was no check, since the accounts of the expenditure could be called for by any member who chose to make such a motion in the House; and that inconveniencies would arise by restraining the power of the Admiralty from employing the savings upon one article to the exceedings upon another, as those savings would by that means remain unemployed, whilst money was obliged to be borrowed for the other purpose.

Mr. *Cornwall* insisted that the number of men proposed was inconsistent with the peaceful declarations contained in his Majesty's Speech: that the method of voting the money gave an unreasonable power to the lords of the Admiralty, and deprived parliament of the regular infor-

mation which it ought to have of the expenditure of this branch of the public money: that, if the money was voted and appropriated for each service by estimate, the savings as well as the exceedings would be regularly accounted for to parliament every year: that the inconvenience suggested of allowing the savings on one branch to lie unemployed, and borrowing to answer the exceedings on another branch, was imaginary; because no more money would be borrowed on exchequer bills, or otherwise, than was actually wanted for each service; and that therefore this ancient but erroneous practice ought to be remedied.

Lord *North* confirmed the declaration of Mr. Fox, that so soon as the fleet from the East Indies could be recalled, the number would be reduced to near the former establishment of 16,000 men: that great reductions had been made last year: that the navy was the favourite service, yet it ought on that very account to be the more strictly watched in point of expence. That a great expence had been necessary to put our ships in good condition, many of them having been found in a state of decay, because they had been built with green or unseasoned timber. That with regard to the method of voting the money, it had been an ancient practice, and there seemed to be some reason for adopting it; but he was ready to listen to any proposition for putting that matter on a better footing, and would give it a fair discussion when made.

Mr. *Hussey*. I have been at some pains to enquire into the different sums granted by parliament for the navy, and I find that on the peace preceding the war before the last, a sum greatly under 900,000*l.* was granted to the navy; 10,000 men were then supposed sufficient; and in the peace preceding the late war, I find 16,000 men were employed, and the sum of 1,700,000*l.* upwards of a million and a half, granted for the service of the navy; an enormous sum, when we consider, Sir, that double the money was demanded, though not double the number of men employed. It is from these circumstances, Sir, that I wish parliament would be particularly cautious in their grants, and know to what purposes the public money is applied. I could also wish, Sir, that the accounts of the navy for the future be more particular, that we may know the specific charges. I do not approve of the method of granting in gross, and submitting the

disposal of the public money to the discretion of the Admiralty. It appears evident to me, that large, very large sums have been misapplied, and it almost amounts to an absolute certainty, that very great abuses are committed in that office. In the peace preceding the war before the last only 800,000*l.* were granted; in the peace following 1,700,000*l.* were allowed; and in the year 1771 the enormous sum of 2,100,000*l.* was demanded. I wish, therefore, that the accounts for the future of the navy be divided, and properly arranged, that we may understand for what purposes we grant the public money.

Mr. *Cornwall*. It appears that in the peace preceding the war before the last, a sum under 900,000*l.* was granted by parliament for the service of the navy, that it afterwards increased to 1,700,000*l.* and since that to upwards of 2,000,000*l.* In 1770, when the kingdom was alarmed, and we were upon the eve of a war, 40,000 men were voted for the navy; they were, however, soon after reduced, but we have never heard how the money has been applied that was granted for their maintenance. I am far from intimating a censure, unless it is due, and where there is room for censure, I will not hesitate. It is our duty to prevent the misapplication of the public money. It is not impossible that the Admiralty should abuse their trust. But let it never be said that we abuse ours. I do not approve the method of granting in gross. Let our grants be so managed that we may know every year how the different sums were disposed of in the one past. Let them be so arranged that at one view we may know where the expenditure has been, I mean to have one year's accounts under another; that will be the parliamentary proceeding, and which I conceive to be consistent with our duty.

Lord *North*. I would cheerfully agree to any measure which may in the least tend to the advantage of the service. But by what the hon. gentleman says, I understand that he wishes a different mode to the present of the navy accounts to be adopted; and if either that gentleman, or the other hon. member who spoke first, will propose any new method superior to the one which has been invariably pursued since the Revolution, I will give it every assistance in my power. I will attend to it with the strictest impartiality, and facilitate its success. But if no reasons should appear for an alteration, if this

method which our ancestors pursued should on enquiry appear to be the most eligible, I hope it will not be expected that I should contribute my share to what will evidently produce no advantage. I think no better method can possibly be suggested than the present. It has subsisted for many, many years; and I think that is one grand argument in its favour.

Mr. *Dowdeswell*. The noble lord tells us, that if we will adopt any scheme, he will very readily attend to it, and do us the honour of hearing it. But I conceive, that it is the business of administration to correct errors, and improve old regulations. The only defence of the old method of voting the navy supplies, we learn from his lordship, is custom; from which species of reasoning it would be no bad conclusion to say, that it was impossible for our ancestors to err. From the King's speech we are to understand, that the present establishment is a peace establishment; yet 20,000 men are demanded, when 16,500 have hitherto been judged sufficient. So that the nation are to be at the extraordinary expence of 3,500 men, and there must also be ships, wear and tear, provisions and stores for those men; or they must be unemployed. An hon. gentleman, much more conversant in those affairs than I am, says, that seamen unemployed are not seamen; so that a standing force is supported, and that at the pleasure of the Admiralty. I entirely acquit the noble lord of writing the King's speech; but it is strange that any minister should advise such a speech, and yet hold contrary sentiments to it in this House. It would be much better for them at once to come forward, and demand such a sum, and avoid the ceremony of acquainting us what it is for. There was a time when a minister would not in this House dare to use such language; and I cannot help agreeing with my hon. friend, that the present method is illegal and unconstitutional. The very nature of our constitution, Sir, is built upon jealousy. We are to suspect abuses, and to guard against them. Here is a sum of two millions to be appropriated to the service of the navy. A few years back it was but 800,000*l.* What can occasion this amazing difference? If the King's speech means any thing at all, we are to consider this as a certain peace establishment, and the minister afterwards demands 20,000 men. Is that a peace establishment? I am to the full as willing as any one to preserve

the navy upon a respectable footing, but let us at the same time know what we are voting the public money for. The Admiralty are to have a great credit, and we are not to see the account. They claim also the produce of the old stores and ships that are sold; for the last five years they produced 20,000*l.* per year: a sum of 100,000*l.* which is not yet accounted for; and I should be glad to be informed by what law, and under what authority, they dare make use of the public money. It is the public money, for it results from a something which the public have bought.

Lord North. I rise up to thank the hon. gentleman for his extreme candour in acquitting me of writing the King's speech; but for the sake of argument, I will acknowledge myself to have had some share in it, and on that supposition I will defend it. It is asked, if 20,000 men are to be the certain peace establishment? I answer, no. That my endeavours shall be employed to reduce them, but from the desperate and deplorable situation of a great company, it was necessary to send a fleet to a remote part of the world. It was notoriously known, nay, I believe the French themselves made no ceremony of confessing, that they intended to take advantage of our weakness in the East Indies, and strike a blow, which, though the French court might have seemingly disapproved of, yet they would risk a war rather than give any thing up. A fleet was in consequence dispatched, and the enemy's intentions are defeated. There are employed, Sir, in that fleet, 3,500 men; when they return they will be reduced, and the peace establishment will be only 16,500. As to the mode of delivering the navy accounts, I see no reason for changing it, unless a better can be adopted. The right hon. gentleman says, it is the duty of administration to correct errors. I will go further; and ask that gentleman, why he did not confine himself to the present only, and prove, that it is the particular duty of the ministry of 1772 to alter old customs, and establish new ones? Why were the ministry for years back, and the one of 1766, to be spared? We have followed their example, they approved of the present method, and we wish to continue it till a better is discovered. But, Sir, what is this complaint after all? Why is this old method to be abolished? While the vote is general, a discretionary power is lodged in the Admiralty; and from the notorious uncertainties of the

sea service, it is necessary there should be a discretionary power lodged somewhere. To make a specific allowance, for wages so much, for wear and tear so much, &c. would be cramping the service, as from unforeseen accidents, and consequences unavoidable, they may probably be obliged to appropriate what is allowed for wear and tear, to wages or provisions.

This would be acting contrary to parliament; a liberty I am persuaded the officers of that board of admiralty will not take. The service must then be cramped. If they have but 15,000 men employed, the remainder of the money lies useless, and for extraordinary events they are obliged to borrow. I am persuaded the present method is the most eligible; and I will not, until I hear more substantial reasons, agree to any alteration. I have one thing more to answer before I sit down, and that is, with respect to the voting of 40,000 seamen in 1770, upon the eve of a war. Happily the storm blew over, and peace returned to us again. It was my first care to lessen the expence as soon as possible, and the ships were immediately reduced. But it is asked, what is become of the sum of upwards of two millions, which was voted in that year? I answer, that from the hurry of the late war, the ships were built of green timber, and upon the alarm most of them were found unfit for service. That overplus was applied for the purpose of repairs; and from the present situation of our navy, we may have a fleet of twenty ships of the line at sea in a fortnight's time. As soon as the fleet arrives from the East Indies, another reduction will ensue, and a great expence be lessened. As to the Admiralty, I am sure, they have no objections to the having their accounts examined; and am certain they wish for nothing more than to have the most minute enquiries into their conduct.

Mr. Welbore Ellis. I have but little to say after what the noble lord has informed the House of, but I am not at all surprized to hear those objections come from gentlemen who have not been in office. I have served at the Admiralty board for eight years; I may be allowed to understand the service, and I am fully persuaded no better method can be adopted. From the uncertainty of events in that service, ships may have long passages, provisions and stores may be dearer, storms may arise and damage them; and it is impossible, Sir, to make specific charges; for it is im-

possible for any man to ascertain what the price of provisions may be next month, or what dangers and damages the ships may be subjected to from gales of wind: it is, therefore, necessary, Sir, that such a credit should be lodged in the Admiralty; for their own reputation, their credit and abilities are concerned, and as they also contribute their share towards that expence, it is no unreasonable supposition that they would be as careful as any other individual; besides, Sir, their honour is concerned, and their accounts are always open for the inspection of this House. Then partly as an old man, and partly as an old member of parliament, I must confess myself in favour of the old method; the wisdom of our ancestors approved of it. It appears to me to be the most economical method; and even if the noble lord had agreed to an alteration, I should not.

Mr. Cornwall. I am extremely unfortunate in not being able to explain myself to the gentlemen on the other side. I do not mean to cramp the navy. It is a favourite service, and as such I am for supporting it. But to prevent abuses, and the misapplication of the public money, is my object. I could wish, Sir, that parliament, in 1774, may be able to know the expenditure of 1773; and this, I am sure may be easily done. The officers who calculated for the ministry may calculate for this House. It is as easy done in one month as in another; in April, as in December: let them then adjust and settle their accounts, that we may know how the 4*l.* per month is disposed of.

Mr. Cooper. I have to inform that hon. gentleman, that in 1691, Mr. Harley then moved for the same alteration in the mode of stating the navy accounts; that in 1693 it was laid aside; in 1694 it was again attempted to be renewed, but failed, from the difficulties which it had before occasioned; and after that period Mr. Harley came to be first lord of the Treasury; and with his power, if it had been eligible, there is no doubt but he would have adopted and established it.

Mr. Edmund Burke:

Sir; for these two years past the King's Speech has announced peace to the public. There every thing was pacific on the continent—there foreign powers gave the strongest assurance of friendship and brotherly love: but what has been the language of his ministers? It has belied that of his Majesty, who has annually the

mortification of finding that his servants put words into his mouth, which the grants and supplies falsify. If our rivals are so averse from hostilities, why do not our ministers return to the old peace establishment? They have at last disclosed the secret, and informed us that this is not a peace establishment. Are we then at war? No, Sir, we are not engaged in open hostilities, but we maintain an armed peace. We have peace and no peace, war and no war. We are in a state, to which the ingenuity of our ministry has yet found no apt name; but, let the name be what it will, it is clear that the language of the King's Speech, and the declarations of his wise ministers, are contradictory.

Nor, Sir, are they contradictory in one single instance: out of many take the following example. Last year his Majesty declared, that "he would ask of his people no extraordinary aid." Yet, in the course of granting the supplies, a sum was taken out of the sinking fund, that sacred deposit, which should be appropriated to the diminution of the national debt; and it is evident, that as the sinking fund is the estate of the public as much as its lands and manufactures, a sum taken from it is as much a new tax or extraordinary aid as a new impost upon trade, or an additional shilling in the pound upon land. Such is the manner in which the wisdom of the present administration supports the dignity and veracity of that kind master, to whom they owe their all.

It would be cruel, Sir, to charge the ostensible head of the ministry in this House with these egregious blunders. Had he, or his co-adjutors on the treasury-bench, any share in the composition of the King's Speech, had they indeed any communication with the author of it, they could not have been guilty of the absurdities remarked by the whole House at the opening of the session. The reduction of the price of provisions, which was recommended with so much parade of humanity and paternal affection from the throne, the persons, who moved and seconded the address, could not have represented as a chimerical and impracticable plan. They could not have thrown such ridicule on the wisdom of the king, the cabinet, and the council; for, if ancient custom has not here been thrown aside as antiquated and unfashionable, the King's Speech must be the production of the joint wisdom of all three; and wise indeed must they be, if we may be allowed to judge from the late specimens of royal eloquence.

But to return. What, Sir, is the object of this extraordinary peace establishment? What is the object of the expensive armament in the East Indies? Has any new fleet sprung out of the ocean? Has an army dropt from the clouds? Are the Marahatoes of the Rohillas in motion? Do pirates infest the coast? Has the renowned Angria come again to life, or have the Chinese fitted out a squadron of junks to bombard Calcutta, and to shake the kings of Leadenhall upon their thrones? Sir, it does not appear that the powers of India are dreaded. The objects of ministerial dread are those friendly, those pacific powers, of whom his Majesty has been taught to speak in such a handsome manner, and against whose machinations he is, notwithstanding, providing by loading his subjects with extraordinary burdens. Sir, the French are or are not in the East Indies. If they are not, withdraw your armament; if they are, by common consent recall your forces, or, if they will not agree to so equitable a compromise, bravely declare war, and do not, under the name of peace, expose us to the expences of war. The people of this country will generously support you in a just cause.

Indeed, excess of generosity is our chief fault. Were not that the case, there would not have been occasion for this day's debate. It is our enthusiastic fondness for the naval service that has prevented the practice of appropriation and regular accounts in that department. Had we been as jealous of the navy as of the army, such a preposterous plan of disbursing the revenue could never have so long subsisted; nor would the present administration have had the sanction of custom and prescription to plead, for being trusted with a discretionary power of expending the money voted for the navy. How weak an argument prescription is in this case, they do not seem to feel; for, where interest is concerned, what will not men think an argument? *Stare super vias antiquas* is their political creed. What then! is this maxim to preclude every improvement, however obvious and necessary, in the constitution? The first enquiry, before we proceed to walk upon this old road, is, whether we can be said *star bene*, and the next is, whether, if this be the case, we cannot *star meglio*. If the latter part of the alternative is beyond our reach, then *sto qui* becomes a necessary, as well as prudential conclusion.

But, Sir, who will pretend that the foot-

ing, upon which this part of the public accounts was left at the Revolution, is good, much less the best that can be devised? All respect is due to the authors of the Revolution; and yet it must be owned they were but novices in finance. They began to reduce the chaos of the public revenue to some order; and what they had neither sufficient time nor experience to complete, let us endeavour to carry to perfection. Let not the ministry draw their neck out of the halter, by saying, that they are not more culpable than the administration of 1766, and every other administration since the Revolution. The administration of 1766, having discovered the impropriety and bad œconomy that prevailed in the accounts of the navy, pledged themselves by the mouth of Mr. Dowdeswell, chancellor of the Exchequer, to introduce into that department the plan of appropriation, and to place it on a level with the rest of the service; and this they did unsolicited by opposition. They did not, like the present ministry, defend the ancient mode, and contend for an unlimited trust and discretionary power of expending the public money. But, supposing they had been thus indiscreet, thus regardless of every interest but their own, will the present ministry stand justified by adopting all the errors of all administrations? But they desire to be trusted: and why do they desire to be trusted? Why, truly, because they are in office! Sir, let this doctrine be noised abroad, and see how it will be relished. Trust you, because you are in office! The very reason why we will not trust you. Our constitution is founded on jealousy; and, because men are apt to betray their trust, it is laid down as a political axiom, that all ministers are knaves.

"Aye, but," (say you) "we possess the lights and the experience of office; and you, unpossessed of these rare gifts, are not fit to act as judges. Leave, therefore, these matters to us. We shall give a good account of the two or three millions voted for the support of the navy! Grant us first the money as usual, and we shall afterwards give you an account. Discharge you first the reckoning, and we shall afterwards produce you a bill of fare, with every item minutely specified." Sir, is this parliamentary language? It may be, as called by a gentleman of great natural and great acquired talents, good political reasoning; but surely it is not logical; for an account after payment is no account

at all. Nor is it satisfactory to say that a member may call for the navy accounts; because such an extraordinary motion is invidious, and the expenditure of the yearly grants should come regularly and methodically before the House, without any uncommon effort of patriotic zeal.

Sir; when such a motion is made, may not some interested member get up and say, that some cause of suspicion should be previously shown? May it not be urged that the immaculate lord Sandwich, or the upright Charles Fox, presides at the board of Admiralty, and that it is ungenerous and unjust to insinuate any misconduct in such great characters? May it not be alleged, as now, that they have the lights of office, and that in comparison of them we are incompetent judges? This language has been actually held by the present ministry upon a similar occasion, upon the motion made to produce the papers that passed during the Spanish negotiation.

Sir, the arguments employed to persuade us that no appropriation is here necessary, are equally applicable to every other part of the public service, particularly to the army accounts, which are very much governed by accident.

Nor is it enough for administration to say, that they have not time to digest a proper plan, and that men out of office have more leisure for such an arduous task. They eat the bread of the public; their ostensible head enjoys 6,000*l.* a year, besides perquisites and adventures in the Alley, and profits upon secret committees. Other gentlemen are equally well provided for according to their station. Do not such emoluments deserve some industry and attention? Do not they call for some application of those lights derived from office? By their own state of the case, our want of place has left not only our fortunes but our minds unimproved. Let them, then, exert some of those rare talents, which they inherit from nature and from office, for the public good, and perform that duty for which the caprice of fortune has left us unqualified.

December 5. The Report of the said Resolutions being brought up,

Mr. *Dowdeswell* said: I am not inclined to obtrude upon the House, but I have examined the accounts of the navy, and am warranted to assert, that the sum voted is insufficient. I find the usual allowance of 4*l.* per man per month is generally 160,000*l.* short; and will you reduce the

Admiralty board to the disadvantageous necessity of borrowing? Either they must not comply with the act of parliament, or they must have recourse to the Treasury for more money than is voted. The Treasury will probably say to the Admiralty, you shall have no more money: the Admiralty will answer, we must maintain 20,000 men; the sum voted is not enough, and we must have more; and if more is granted, it will be granted illegally. It appears then, from the papers on your table, that the sum voted for the navy service is not enough. But what said the noble lord in last night's debate? Why, that this custom has continued since the Revolution, that it was approved of by our ancestors, and that administration is justified by continuing of it, because it was adopted by the preceding one. Such, Sir, is the reasoning of the Treasury bench; and what can you collect from it? Why, that the noble lord has carefully imitated the blunders of different administrations; and would rather prefer them than submit to any alterations. Such, in fact, is his language, but whatever respect gentlemen on the other side may have for the errors of antiquity, do not let us, I beseech you, be governed by such ridiculous partiality. Let us, if 4*l.* are insufficient, allow 4*l.* 10*s.* or 4*l.* 15*s.* and not wilfully commit so deliberate an absurdity as voting a sum of money which we are positive will not be enough for the service, and subject the Admiralty to borrow money upon interest, while we have it of our own lying useless in the Treasury.

Mr. *Buller*. I imagined this matter had been sufficiently debated last night, and I am sorry to see it revived. I have heard of no better method of voting the navy supplies, and I think we are very well in the old way.

Mr. *Dowdeswell*. I am not speaking of the technical sub-divisions, or of appropriating the sums voted to specific charges, for victualling, wages, &c. but of the whole, as insufficient for the service; acknowledged to be so even by administration; and I hope, in consequence thereof, that 4*l.* 10*s.* or 4*l.* 15*s.* whichever may be found most proper, may be voted for each man per month.

Mr. *Cornwall*. The question is, whether you will, with your eyes open, vote a sum which you are certain will be insufficient for the service it is intended for. From papers upon your table, it appears, that there will be a deficiency of 160,000*l.*

And will you, then, subject the Admiralty to a dispute with the Treasury, and oblige them to borrow money at a great disadvantage? Shame upon you! It is unparliamentary, and setting a bad example to the officers of that board.

Lord North. I see no reasons why we should abandon the old method. This House has always a power to call for accounts; and a committee of inspection may examine and enquire into the causes which obliged the Admiralty to expend more money than they are voted by the authority of parliament. From the uncertainty of the sea service, there is no man, however conversant, that can, with any tolerable accuracy, affirm what the amount of the expenditure will be. What the right hon. gentleman has asserted, with respect to the deficiency, is only a conjectural account, and I think the present is the most economical method. The Admiralty are under a very necessary restraint, allowing the 4*l*. to be enough (though after the reducing of the India fleet I am in hopes it will.) If they were allowed more than a sufficiency, it would induce them to be lavish with the public money. As it is, if they exceed their allowance, they are obliged to give parliament a regular and just account of every extraordinary expenditure. But if a more certain and better method can possibly be adopted, let it come from any quarter whatever, I will not object to it.

Mr. Hussey. The noble lord approves of the present method, because it was adopted soon after the Revolution. But will the noble lord pretend to say the kingdom is in the same situation at present as it was then? During the debate last night, I heard of no inconvenience which would arise from a new mode of voting the navy supplies; I heard, indeed, that gentlemen boasted much of their knowledge in office, but when we are upon a plan of reformation, I know not why any measure should be objected to, that is likely to produce a change for the better.

The Resolutions were agreed to by the House.

Report of the Committee of the House of Commons on the Laws in being relative to the Assize of Bread.] December 3. In the committee on the high price of corn and provisions several witnesses were examined. After which,

Governor Pownall said, that he was clearly of opinion it was not within the

power of parliament, nor the reach of any human power, to lower the whole of the prices of things as they ran through the community, that is, that it was not within the power of man to alter the proportions which money, and those things which were bought with it, bore to each other; for that price or proportion depended entirely on the proportional quantity of money; that a great influx of money made money cheap, and of course, what in common language is called, things dear; that there was no altering or lowering of prices in this sense. He said further, if parliament ever could enforce for a time any change in this proportionate, the consequence would only be, that by interfering they would raise an alarm of scarcity, which must necessarily run up the prices of the market; and if they made any forced regulations, they would only increase the embarrass and trouble of business, which those who were concerned in it would be paid for, and this therefore would here again raise the prices in the market; that therefore, so far as these matters went, they had better not meddle, but leave every thing free and open to find its own level. But yet, on the other hand, if there should be found any disproportion in the scale of prices; and that some things, the necessaries of life—that bread, for instance, bore a higher price than it ought to do in proportion to wheat and flour; and if this arose from any error in the assize, this was a matter proper for the consideration of parliament; this was an injustice that ought to be remedied this way, an oppression upon the poor in which they ought to be relieved: this relief, if the case should prove to be so, the parliament could, and ought to give. However, being called upon by the petitions of the people on one hand, and having it recommended from the throne on the other, the House ought to take it into immediate consideration. Then, after having stated from the evidence of the gentlemen called to the bar, and from actual facts, that there was at least a doubt, whether bread might not be so made of the best wheat, and of the heart of the flour, that the poor, and indeed every body, might eat it at four-pence in the peck loaf cheaper than at present, and yet the baker have an equal profit to what he has now; that it was a fact that, as the assize now stood, if all the wheat flour in America was brought to London, it could not be made into bread, but must be carried out again, as

was actually the case of above 6,000 barrels of flour brought from America, and forced to be carried off again; that as the assize now stood, if the baker made such household bread at such price as was directed by the act of parliament, it must either be such as he could not live by, or such as the poor would not eat, and ought not to be fed with; and therefore there was in fact but one sort of bread made, which was too dear: that that bread might be made cheaper. After having stated these propositions as worthy the consideration of parliament, he moved, and Mr. Ongley seconded the motion, "That a Committee be appointed to enquire into the several laws now in being relative to the Assize of Bread, and to report the same with their opinion thereupon to the House;" adding, that if these facts were true, the laws for settling the assize ought to be amended; if not, they ought at least to be explained to the satisfaction of the people.

A Committee was accordingly appointed, who on the 21st instant made the following Report:

REPORT from the Committee appointed to examine the several Laws in being relative to the Assize of Bread.

The Committee appointed to examine the several laws now in being relative to the assize of bread, and to report the same, together with their opinion thereupon, to the House, have, in obedience to the orders of this House, examined all the laws respecting the assize of bread.

They have also (as far as the Journals of the House could afford them information) examined the proceedings of this House on this subject.

Your Committee have examined several evidences, from the several branches of this business; viz. the corn factor, the mealman, and the baker. And

Your Committee do find, that from time immemorial, and in all times, to the 31st of George the 2nd, there was in all assize tables, made under the law, a wheaten bread made of flour the whole produce of the wheat, the said flour weighing, at an average, three fourths of the weight of the wheat whereof it was made.

Your Committee are informed, and do find, That such flour doth contain the whole nutrition or sustenance of the wheat; and that such is the best medium standard, and the most proper, which can be intro-

duced for bread in common use. That, in the 31st of George the 2nd, an Act passed, intituled, "An Act for the due making of bread, and to regulate the price and assize thereof, and to punish persons who shall adulterate meal, flour, or bread," wherein, amongst other matters, it is directed, that, where an assize shall be set, no other sort or sorts of bread except the wheaten and household, as set in the tables annexed to the said Act, should be made or sold, under a penalty expressed in the said Act.

Which sorts of bread, although there be no specific description of them in the said Act, nor any such description to be collected from the said tables, are holden forth to us to be made by a division of the flour (representing the whole wheat) into two parts; the wheaten bread intended by that Act being supposed to be made of the finer half, and the household bread to be made of the coarser half.

That the wheaten bread made of the flour (representing the whole of the wheat) which had from time immemorial been set and stood in all assize tables heretofore made, and was the basis and standard of all, was by this last mentioned Act excluded and prohibited from being made and sold.

Your Committee do find that this Act has never been, from the time of passing the same, nor is at this day, in actual operation, according to the true intent and meaning thereof: that the flour is not in fact so divided, nor the bread so made as is described: that very little household bread whatsoever is made: that no household bread, such as is supposed and was intended by the Act, is made: that the wheaten bread which is made and sold, is not the wheaten bread intended by that Act.

That in consequence of the old standard wheaten bread being excluded, while the law, directing other sorts to be made, is found not to operate in practice, great confusions and many inconveniences have arisen, and do exist; and amongst others, the market hath been prevented from being supplied, in times of scarcity, with a bread made of such flour as the law permitted to be imported for that purpose.

That your Committee, considering these consequences and effects of the quitting the old medium standard wheaten bread made as above described, do find, that if that standard bread made of flour, which is the whole produce of the wheat, the

said flour weighing, on an average, three fourths of the weight of the wheat whereof it is made, was again introduced, under certain regulations and restrictions, it would tend to prevent the said confusions, and to remedy the said inconveniences: and your Committee find, that the columns calculated for the wheaten bread, in the now repealed assize tables of the Act of the 8th of Anne, would be the proper assize for the said bread; and will have this further benefit and advantage, that when wheat (the baker's allowance included) is at seven shillings the bushel, the wheaten twelve-penny loaf of this standard bread would contain 7lb. 7oz. 3dr. of bread, whereas, the twelve-penny wheaten loaf, according to the assize of George the 2nd, doth contain only 6lb. 8oz. 4dr. and so in the like proportion.

Although your Committee may apprehend that, within the cities of London and Westminster, and within the markets dependant upon, and connected with the same, some inconveniences might arise, if the magistrate, whenever he should direct this standard wheaten bread to be made, and to set an assize thereon, should for the present be permitted to prohibit the wheaten now in use from being made and sold, or omit to set an assize thereon: yet they do not find, that, when and where, in any other parts of the kingdom, the magistrate shall set an assize upon, and direct this standard bread to be made, any inconvenience could arise, if there was no assize set for any bread of a finer sort, nor any such permitted to be made without a licence. On the other hand, they find that, in order not to enhance the price of bread upon any persons who are used, or should be willing to be supplied with bread of an inferior and cheaper sort than the said standard bread, the bakers shall be at liberty to bake and sell the said inferior sorts of bread, provided they be restrained by severe penalties from selling, at the price of standard bread, any bread which shall not come up to the full standard in its composition.

Upon the whole, your Committee came to the following Resolutions:

Resolved, 1. "That it is the opinion of this Committee, That if the magistrates were by law permitted (when and where they shall think fit to set an assize on bread) to introduce again, under certain regulations and restrictions, the old standard bread made of flour, which is the

whole produce of the wheat, the said flour weighing on an average, three-fourths of the weight of the wheat whereof it is made, it would tend to prevent many inconveniences which have arisen in the assize of making the bread for sale.

2. "That the columns calculated for the wheaten bread, in the now repealed tables of the Act of the 8th of queen Anne, intituled, 'An Act to regulate the price and assize of bread,' would be the proper assize for said standard wheaten bread: and that the twelve-penny loaf of this standard wheaten bread, containing the whole flour of the wheat (the said flour weighing, on an average, three-fourths of the weight of the said wheat) would, upon a medium, contain one pound of bread in eight more than the twelve-penny loaf of the present wheaten bread made under the Act of the 31st of George the 2nd."

Mr. Whitworth objects to the Language in which the Royal Assent is given to Bills.]

Dec. 4. The Usher of the Black Rod informed the House that his Majesty commanded their attendance in the House of Lords. On their return

Mr. Richard Whitworth said:

Sir; I have often wished that some member would take notice of the language in which the King's assent is given. We are just returned from the House of Lords, and I think this a very proper time to move, that, by an address or bill, whichever may be thought most proper, his Majesty be desired to give his assent in his own native language. I hate a dishonest language! 'Le Roi le veut!' Let the royal assent, Sir, be given in the language of truth! We have, Sir, even in our proceedings, Die Martis! Die Lunæ! I could wish they were abolished. The ceremony of the King's assent being given in French, is the remains of Norman slavery; a disgrace to the British parliament, and which I hope will induce some member to move, that either an address or bill be forwarded to obtain the royal assent for the future to be given in good honest English. I am fully satisfied it would make the people much happier.—[The House was in a continual laugh.]

The *Speaker* replied very gravely, that as the matter was of a very weighty nature, he thought it would be proper that the House should 'take time to consider of it.' This occasioned a second flow of

good humour.—The House, however, was adjourned immediately.

Debate in the Commons on the Bill to restrain the East India Company from appointing Supervisors in India.] Dec. 7.

Mr. Alderman Harley reported from the Committee of Secrecy, appointed to enquire into the State of the East India Company; and, for that purpose, to inspect the books and accounts of the said Company; and to report to the House what they find material therein, in respect to the debts, credits, and effects, of the Company, as also to the management and present situation of the Company's affairs; together with their observations thereupon; that the Committee had proceeded to enquire, in the first place, into the late proceedings of the East India company, in relation to the Appointment of Commissioners for superintending and regulating the Company's Affairs at their Presidencies in the East Indies; and had directed him to make a Report to the House.—The Report being read,

Mr. *Harley* said: Sir, what has been read to the House is only an historical account of some matters which have come under our enquiry. With respect to cash, the Company are at this time much distressed, and they are going to send out an expensive commission, which they say, will be paid out of the savings of Mahomed Resim Aly Cawn. It is true they have not yet fixed the salary of those gentlemen, but from conversation abroad, and on the chairman and deputy chairman being examined, we find it is to be 10,000*l.* each per annum, to be paid in India; the first payment to be six months after their departure from England, and a clerk and assistant at 500*l.* per annum, and all expences in the country, and a table to be allowed by the Company. Upon asking the chairman and deputy chairman, whether the savings from Mahomed Resim Aly Cawn would not go to the Company in case no supervision should go out? it was answered, most undoubtedly. It is therefore the opinion of the Secret Committee appointed by this House, that a Bill should be brought in for restraining the East India company for a time to be limited, from making any appointment of commissioners for superintending and regulating the Company's affairs at their presidencies in the East Indies.

Mr. *Dempster*. A report so unexpect-

ed I confess alarms me. The proceedings of this secret committee are the most extraordinary I ever heard of. The very idea of a secret committee is unconstitutional, and only allowable in cases of a criminal nature. The hon. alderman speaks of the distress of the East India company. It is true, Sir, there is a deficiency in cash at present, but I affirm that the affairs of that Company are neither in a ruinous nor deplorable situation. The hon. gentleman complains of the extraordinary expence attending the commission. That expence is not yet ascertained; and, Sir, since parliament have undertaken to enquire into their affairs, they resolve to wait the determination of the House, before they proceeded any further in the business of the supervisors. The abuses committed in India, particularly at Bengal, made it necessary that a set of independent gentlemen should be appointed, in whom we could confide for regulating and managing our affairs in India. The choice fell upon six gentlemen; and notwithstanding the great expence, which the hon. alderman has calculated to be 120,000*l.* yet I affirm that millions may be saved in consequence of that expence. The Report strikes at the very charter and constitution of the Company. It is the most unprecedented and unparliamentary proceeding I ever knew. I am far from denying the power of parliament, and their right to superintend the Company; but before they venture to dispossess the Company of its privileges, they should be first assured of those privileges being abused. Nothing else can justify such a measure; and therefore I hope the House will proceed to the previous question.

Mr. *Harley*. The directors never informed us that they had, in consequence of this House undertaking to enquire into their affairs, suspended the business of the supervision.

Mr. *Sullivan*. Because, Sir, it never happened to come before you properly; but the direction have stopped it, and I pledge myself that nothing more will be done in it till the determination of parliament be known.

Mr. Thomas Townshend spoke in favour of the India company, and was answered by Mr. Charles Fox.

Lord *George Germaine*. I did not expect, I confess, to have heard a debate upon this matter so early. A Bill is going to be brought in for restraining the Company from doing what they have at least for a

time suspended of themselves. I think, in their present situation, no extraordinary expence should be incurred which could be avoided; and if any person were to ask me if I thought supervisors should be sent out, I would most certainly answer, No. But do not let us disgrace the dignity of parliament by a wanton exertion of authority. Two gentlemen in the direction have pledged themselves, that nothing further should be done till the determination of parliament be known. Let the Report, then, lie on the table; and if they should attempt to proceed, then, and not till then, you should interrupt them.

Mr. Solicitor General *Wedderburn*. I agree with the noble lord, that no supervisor should at present be sent out; but at the same time no effectual restraint can be laid but by an act of parliament. I would not take the opinion of even the two Houses. Nothing, unless in the shape of an act of parliament, can effectually restrain them. At best, it is only an act to prevent a possible evil. It is no invasion of charter; and unless such an act is passed, the Company may take advantage of the recess of parliament, order a ship, and send the supervisors out before we meet.

Mr. *Rumbold*. Two gentlemen in the direction have pledged themselves, that the measure shall not be prosecuted any further till the determination of parliament be known; and as they have already suspended it, I hope the House will proceed to the other business of the day.

Mr. Solicitor General *Wedderburn*.—The hon. gentleman appears to be totally unacquainted with the constitution of the East India Company. It is not in the power of the direction to keep their promise, should a general court order to the contrary. Immediately after we break up a court may be called, the ship ordered, and the supervisors at sea many leagues before we can possibly meet. All this is very probable, and we are to guard against evils which may happen. The direction are inferior to the general court, and are obliged to be governed by them. The same commission as the last had, may do, and in the recess of parliament it is not unlikely but this business may be carried into immediate execution.

Lord *North*. It is the wish of parliament, and particularly of administration, to make the East India Company a great and glorious Company, and settle it upon a permanent foundation. They are going into an expensive commission, at a time

[VOL. XVII.]

when they are considerably in arrears to government, at an expence, Sir, of 120,000*l*. Surely, Sir, it is the duty of parliament to preserve them from ruin. I am sure no hostile intentions are conceived against that Company; but the committee appointed by yourselves have judged it expedient a restraint should be laid; and as no restraint can possibly be laid but by an act of parliament, a Bill is brought in for that purpose.

Governor *Johnstone*. It may appear strange, Sir, to those who have been witnesses to my conduct in another place, where I have constantly opposed this commission, that I should now likewise oppose a proposition which will, in effect, put an end to it. But the principles of my conduct are consistent in both places, as I am persuaded I shall make appear, if the House will indulge me so far as to hear my reasons. I opposed the superintending commission in the court of the East India proprietors, as illegal; I oppose the present motion as unconstitutional. The reasons why I believed the present superintending commission, as well as the former to Messrs. Vansittart, Scrafton, and Ford, to be illegal, spring from the same defect. The charter of justice, granted by his late majesty for the several presidencies in India, which has been recognised by two acts of parliament and the courts of appeal in this country, prescribes, that the president and council, for the time being, shall be judges of Oyer and Terminer, and likewise the judges of appeal from the Mayor's court in civil causes, the express words of the charter in both cases running in the following terms: "whereof the president or the senior of the council, for the time being, shall be one." Here it is clear to me, that both the spirit and letter of the law have said, seeing how much the affairs of the Company and the administration of justice are interwoven together, We will admit that the superior officers of the Company in the dernier resort in India shall administer justice to the people; but we will have this security both for their capacity and integrity, that you the Company shall think them fit to be entrusted with the management of your greatest concerns. The moment the Company declares that the persons holding those offices or titles are unworthy of being trusted with the management of the Company's affairs in the presidency, the spirit of the law declares they are equally unworthy of

[2 O]

administering justice to the people; and the letter of the law seems to me equally strong towards the conclusion I would draw. The words are—‘the president and council for the time being’—by which is plainly expressed the presiding authority for the time when the trial shall be had: it matters not what designations you distinguish the persons holding those essential qualities by, whether that of supervisor or commissioner; if they are invested with the supreme management of the affairs of the Company in that presidency, all other civil jurisdiction, except that of the mayor’s court, immediately ceases, and attaches upon them; nor can any conjuration or contrivance of the court of directors, or the mercenary lawyers they have consulted, alter the immutable nature of the establishment. To those who have consulted the nature of the two superintending commissions which are contained in your report upon the table, my argument will appear more conclusive; for here I must put a right hon. gentleman right as to facts, which he has totally mistaken. The two superintending commissioners are perfectly distinct in the principles upon which they proceed; the first as approved by Mr. Yorke and Mr. de Grey; the late commission, by Mr. Jackson, Mr. Wallace, and Mr. Sayer. But I am bold to affirm, that it is impossible for any man who devised the expedient for preserving the law in the first commission to have approved of the second, because they proceed upon principles diametrically opposite; and therefore, so far from supporting the legality of the one or the other, by the opinion of five eminent counsel, they mutually destroy each other, and in the balance of the account commissions may fairly be said to stand upon no opinion; for it is to be observed in the commission approved by Mr. Yorke and Mr. de Grey, that the superintending commissioners were to suspend their own authority, while they permitted the president and council to discharge their several functions, particularly those of judicature and the ordering and judging upon the sentence of courts-martial: and again, when they chose to exercise their authority, they were to annihilate by a note or slip of paper the authority of the president and council, and then to revive the same; thus alternately reviving and destroying the several powers by a form of government more farcical than any thing which has yet been exhibited on

the theatre of comedians. At the same time it is evident, as far as principle can be traced through the maze of such ridiculous establishments, that the predominant opinion supposes that both of these powers could not act or exist at the same time; whereas the present commission, on the contrary, provides, that the president and council should be preserved pure and entire, and always supplied with new members in case of vacancies, as a necessary subsisting authority perfectly compatible with the other; and the superintending commissioners are expressly prohibited from interfering in any regulations or judgments respecting courts martial, of the civil or criminal judicature; so that in fact, besides contradicting the law which vests those powers in the presiding and counselling authority for the time being, the greatest objects of their mission are withheld from their power of amendment, while both martial and civil law are to be administered by others, who are supposed to stand dependant and independant, in a matter repugnant to common sense.

These are my reasons for believing both commissions illegal. If the grounds for restraining the execution had been moved on that principle, I should heartily have concurred; but admitting the legality, as the movers and supporters of the present question allow, I must oppose it as a wanton exertion of authority, founded on the most dangerous doctrine, that of suspending the exercise of admitted legal powers, which, in fact, have been purchased from the community, without assigning any cause upon which this exertion of the absolute authority of legislature can be vindicated, which is not equally applicable towards destroying every principle upon which the preservation of private property, and the freedom of action are founded in this once happy constitution. It is doubly mortifying and disgraceful to the Company, since the noble lord has acknowledged, that in case what has fallen from the directors of the Company had happened before the motion was made, he would not have desired it. Shall then the slight shame of yielding to reason in a public assembly, where it is well known to the world the minister of the day can carry what question he pleases, right or wrong, be put in competition, by those who pretend the smallest regard for their country, with establishing a precedent which strikes at every thing which is sacred in society? For my own part, if

this motion should take place, I shall no longer consider the Company as free agents in the management of their concerns: the whole is from that moment transferred to the parliament, or, more properly speaking, to the king's minister. There is no man who can have a worse opinion of the management of the affairs of the Company, at home or abroad, than I possess; but I beg the House will distinguish between those faults springing from the corruptions of individuals, and those which arise from faults incident to the constitution of the particular government. I believe the constitution of the Company excellent in itself, and fully competent to the management of its affairs.

Because they have failed under the direction of those who have lately governed them at home and abroad, it would be unjust to conclude against the whole system. I remember, when the navy of England was brought to such disgrace under Matthews and Lestock, and Mitchel and Griffin, shallow reasoners were ready to impute such general failing in every part of the world to some defect in the naval institutions. Various projects were soon set on foot for altering the establishment; one in particular was for putting the admirals into frigates in the day of battle. There were not less than eight or ten alterations proposed, equally new and absurd; but this House taking these national misfortunes into their serious consideration, directed such enquiries, and passed such censures, as gave encouragement to merit, while they brought the opposite qualities to the disgrace they deserved, without which no government can exist; and indeed it is unjust for the supreme power to complain of the mismanagement of any department, unless this principle is apparent in its conduct. Thus the navy of England was restored to its ancient vigour, and its glory carried as high in our own days, without any alteration in its establishment, as it ever was at any other period.

The arguments which are drawn from the expence which would attend this commission are not in the smallest degree conclusive. Because we have erred in one instance, to allege we will proceed to commit the same error with our eyes open, is a very unfair way of reasoning. If the Company is to be tried by that rule, it is time indeed that the management of its affairs should be transferred to the House; for it is impossible to conceive upon what

an extravagant scale all their appointments are calculated. Why should it be imagined that men will require more money, to perform the like services to the Company, than they do from the state? I presume to think the King's admiral equal to any of those who are named for this supervision.

It were becoming the directors to inform themselves what his Majesty allows to his officers. Is the president of Bengal to be deemed superior to the governor of Jamaica? One of the late supervisors, Mr. Vansittart, confessed to me with his usual candour, that all that pretended parade which is generally given out as a reason for vindicating such a waste of the Company's money was quite unnecessary. However, that the House may judge of the different manner of conducting business by the officers of the crown and the officers of the Company, I will state a similar case, respecting the 34,000*l.* mentioned in the Report on your table as being paid upon the last commission. Every body must lament the unfortunate end of the late supervisors, particularly that of Mr. Vansittart, which was a national loss; still the directors must be just, they have no power for extending their generosity. I had occasion to be informed in what manner his Majesty's navy board made their payments to the officers who were lost in the *Aurora*. It was calculated she must have been lost in eight weeks from leaving the Cape of Good Hope. The Company presume the commissioners might have survived a twelve-month, and accordingly, instead of 7,500*l.* which the crown would have paid, the Company pays 34,000*l.* I am certain, from my own knowledge in conversing with most of the gentlemen who were to execute the present commission, that they did not expect the same emoluments as the last supervisors had. But still, be the expence what it may, it can only be deemed proper or improper, in the consideration of this measure, upon the relative good or savings it may be supposed it would produce, which is a subject into the consideration of which neither the secret committee nor the House have yet entered. Upon the whole, therefore, the propositions now before us appear unnecessary, as there is not the least reason to suspect the Company have any intention of violating the respect that is due to the legislature; and supposing they had, the grounds upon which this Bill to re-

strain the exercise of their legal rights is now ushered into the House are such, that no man who has studied the great barriers of a free government can consent to the question upon such principles.

Mr. Edmund Burke :

Sir; I rise up to thank the noble lord in office for his extreme bounty in assuring us, that no hostile intentions are designed against the East India Company, and that he wishes to make it a great and glorious Company (for those are his pompous expressions), and put it upon a permanent footing. Three kings have entered an unfortunate kingdom with fire and sword, in order, I presume, to make it also a great and glorious kingdom, and secure to it its liberties and laws. They have published a manifesto to that purpose, which the noble lord has perhaps just received: and he gives it to you to-day, lest it might be stale to-morrow.

But, Sir, let us examine into this extraordinary matter: here is a committee appointed last year; a fair and open committee, which have produced nothing. This was the lawful wife publicly avowed; but finding her barren, they have taken a neat little snug one, which they call a Secret Committee, and this is her first-born. Indeed, from the singular expedition of this extraordinary delivery, I am apt to think she was pregnant before wedlock. Yet, after all, what is this Report but a direct invasion of the Company's charter? It is, Sir, a Bill to suspend a law of the land; it is neither more nor less; and we are, after distressing the Company, about to rob them of their charter, and overthrow their constitution. The noble lord does well, in saying, that he means to preserve the Company from ruin: but he should previously have told you, that their ruin is the immediate consequence of his blunders. In the year 1767, administration plundered the Company of 400,000*l.* and this I assert to have occasioned their present distress. If we suffer this Bill to pass, we shall, in fact, become the East India Company; and you, Sir, will be seated in that chair with a little hammer by an inch of candle. The Treasury bench will be the buyers, and on this side we shall be the sellers. The senate will become an auction-room, and the Speaker an auctioneer! Shame upon such proceedings! Here is an end to confidence and public faith.—Public faith! alas! that has long been given up; that has not been

attended to for some years! However, I hope the House will let this Report lie upon the table, until the Secret Committee have furnished us with more substantial reasons than have yet appeared for invading the charter of that Company.

The House divided: The Noes went forth.

Tellers.

YEAS	{ Mr. Charles Fox - - }	114
	{ Mr. Cooper - - - }	
NOES	{ Mr. T. Townshend - - }	45
	{ Mr. Dempster - - - }	

So it was resolved in the affirmative, and leave was given to bring in the Bill.

*Debate in the Commons on the Expedition against the Caribbs, and the Sale of Lands in the Island of St. Vincent.** December 9. The House being in a Committee on the Army Estimates,

Mr. Thomas Townshend said:—I do not wish to trouble the House to-day if it is improper, but I hope on some future day they will examine into the management of our troops in the West Indies, and particularly into the nature of an extraordinary expedition, at a dangerous season of the year, to St. Vincent's. I am informed, Sir, and from very good authority, that some regiments have been sent, without tents or camp equipage, to that island, and have slept in the woods without covering. Surely, Sir, when the British troops are thus employed, it will deter young men of birth and education from entering into our marching regiments; they already seem averse to the service, and get commissions either in the guards or cavalry. However, as it seems this business is improper to-day, I hope the House will examine particularly into the expedition to St. Vincent, which to me, I confess, appears a breach of national honour.

Mr. Alderman Trecothick. The hon. gentleman has very justly opened a matter which, in my poor opinion, deserves the serious consideration of parliament. I feel, Sir, for the honour of the British nation. I think it is at stake, while a scene of iniquity and cruelty is transacting at St. Vincent's on the defenceless natives, under the authority of this government.

* For a particular account of the Expedition against the Caribbs, see the Annual Register for 1773, p. 83, and Adolphus's History of England, vol. 2, p. 25.

The poor Caribbs ! the last remains of the Aborigines from South America, are to be totally extirpated ! Regiment after regiment is sent upon this disgraceful service, and those regiments unprovided. Let us know the cause of those hostilities against a defenceless, innocent, and inoffensive people. About 40 years past, a ship loaded with negroes from the coast of Guinea was wrecked upon that island : it was a fortunate accident for them : they incorporated with the natives ; and against those you are exercising the barbarities of the Spaniards against the Mexicans. Sir, I hope this business will be enquired into in a serious manner, as I think it materially affects the honour of the British flag.

Mr. *Richard Whitworth*. I agree with the hon. gentleman behind me, that an enquiry should be made, as soon as possible, into the nature of a very extraordinary expedition, indeed, to the island of St. Vincent. I have received a letter from an intimate acquaintance, who is employed upon that dishonourable service ; and he assures me, Sir, that the Caribbs are up in arms, and too well disciplined to be subdued without superior force. Before we pretend to extirpate those poor people, we should examine our right. The French only ceded part of the island to us ; that part was their property, and they had a right to cede it ; but what claim have we to the other ? None. The French could not cede to us what they had not ; they lived by treaty with those people, and upon those conditions, I understand by the terms of the last peace, we are also to live with them ; but I suppose some of our traders or planters have taken a fancy to their part of the island for country-houses to divert themselves, and to satisfy the rapacity of those adventurers, the British arms are to be employed, and the miserable natives are to be cruelly dispossessed of their habitations, and driven from their families and friends : the part where they live is divided only by a river, and nothing but the most wanton cruelty can induce us to dispossess the unoffending natives of their country.

Lord *North*. This is foreign to the business of the day : but I am very willing an enquiry should be set on foot into the affair of St. Vincent's, and the House shall have every information that is in my power to give them.

Colonel *Barré*. The worthy alderman,

as an English merchant, is very justly alarmed for the honour of the British flag, and I think the enquiry cannot be brought on at a more proper time than the present. I am sure the hon. gentleman (Mr. Townshend) will not abandon it, and I think it peculiarly behoves administration to vindicate themselves. If they are justifiable in what they have done, it is their duty, as well as interest, to finish the business at once. If they cannot justify themselves, then, Sir, it is the duty of this House to probe the foul transaction to the bottom. But, unhappily, we are reduced from the lofty strain of loud remonstrance, to the insignificance of soft murmuring ! Where is the British spirit gone ? Sir, the noble lord in office has given in (pardon me if I say) an imperfect account. An hon. gentleman assures you, that the Caribbs are in arms. Will any of you pretend to say they are not in the right ? No ! they are fighting for liberty, and every English heart must applaud them. In times of profound peace, our troops that have bravely fought, and bravely conquered, are sent at the worst season of the year, unprovided, to attack a handful of men, the natives of the island, who have done you no injury. One of those regiments I had the honour to serve in 14 or 15 years ; and if it is a reflection on me for having a particular affection for that regiment, I accept the charge, and think the crime is no dishonour to me. Sir, that regiment is miserably reduced ; nor is that attention paid to our troops on that service which they merit. Surely, Sir, they have the first claim to preferment. They have cheerfully gone forth to meet the enemy, and like soldiers hazarded their lives. They are now sentenced to linger out the remainder of their days in the West Indies, and lose what is dearer to them than their lives (for life is nothing to a soldier) their constitution. Sir, the governor in one of the islands, in order to celebrate the anniversary of his sovereign's birth-day, ordered the garrison under arms, but paying the proper compliment to the commanding sea officer, a heavy shower of rain fell in the interim ; the men, two-thirds of them, were taken ill, and one-fourth of them perished. If they live to return, they return to starve upon the pitiful interest or pay of their commissions. I knew, Sir, a worthy and deserving officer as ever wore a sword ; I knew him deserving of preferment, and when the majority was

vacant in his regiment, recommended him to the secretary at war and commander in chief. From the former I had indeed little to expect; I had no favours to ask nor expect of him; but to the commander in chief, I mentioned this officer as a man of merit. I know, Sir, that in a great nation like ours, it is impossible to provide for every man of merit; but I shall ever think it my duty to keep a list, and point out to the gentlemen in office, at least while I have the honour to be in the service, those who do. This officer, Sir, notwithstanding his claim of merit and seniority, had not the other inestimable qualification of money, therefore a younger officer was put over his head.

Lord *Barrington*. I beg pardon of the House for troubling them; but I wish the hon. gentleman would have explained himself. As to the officer, I believe he alludes to the 32d regiment. I remember the circumstance, and I own I cannot justify it. If I mistake not, the matter was mentioned to the then commander in chief. I recollect that another officer purchased, but he was in the same regiment. He could not, indeed, go out to the West Indies; and we indulged him by letting him change with a half-pay major, who would readily go out to the regiment. As to the discouragement which the hon. gentleman behind me mentions of men of birth and education going into the marching regiments, I believe it is generally true, because the guards and cavalry are more lucrative. The marching regiments are more likely to make them better soldiers from the service they are engaged in; but we have very good soldiers made at home (here a loud laugh.) With respect to the regiments at St. Vincent's, and the propriety of that measure, that will be argued hereafter. General Gage sent from America two regiments with tents, &c. All those necessities accompanied the sixth regiment from Plymouth; and if they find them necessary at St. Vincent's they will be used; if not, they will be forwarded to general Gage. I am sure very cogent reasons will be given for the expedition to St. Vincent's; and nothing but cogent reasons can justify such a measure. I acted only ministerially. The Secretary of State demanded assistance to be sent. I remonstrated to him (if the hon. gentleman likes that word) that it was a bad season of the year, and it would endanger the troops. He answered, the necessity of it justified the measure, and the men must

be sent. If I refused, I must have resigned, and [Colonel Barré interrupting him, softly said, "and that you would not do"] I am very clear that cogent reasons will be given for this measure.

Colonel *Barré*. I only rise to beg pardon of the noble lord, and acknowledge my error; I really take shame to myself for hurrying him into this confusion and difficulty. As to the mistake, though he has his doubts, I hope the House will discover it in his disturbing the respectable ashes of the dead. I am far from pressing him too closely, but he says that the Secretary of State ordered him! Perhaps the noble lord is averse upon those occasions to negatives: but I am told, that in the War-office no man is more capable of whispering in a soft, complaisant and easy manner, no! than his lordship—I wish he would now and then muster up courage to say no! like a man upon more important occasions. I think he has, with very few intervals, contrived by an admirable dexterity, known only to himself, to be employed 16 or 17 years, and by this time I should suppose he is at least half a soldier. He should feel for the honour of the service, and not devote troops, who have served in the war, to destruction, unpitied in the West Indies. But he acts only ministerially; and he says, if he refuses, he must resign, and disagreeable as the one may be to his lordship, the other is infinitely more so.

Lord *Barrington*. If the hon. gentleman will recollect, I informed him that I remonstrated to the Secretary of State, and that the reason alleged for the extraordinary measure was necessity. Those reasons, I am persuaded, will be given to the House on a future day. The Secretary at War is not of the cabinet, and he receives his Majesty's orders from the Secretary of State.

Mr. *Thomas Townshend*. The noble lord, I remember some time past, informed us there was no such thing as a cabinet council, and now he complains that the cabinet doors are shut against him! He assures us that if he refuses the orders of a Secretary of State, he must quit his office, which to him I have no doubt is the most painful thing imaginable. In this case, the Secretary at War has only to receive orders, bow, and obey, however repugnant they may be to the honour of the service. Sir, I hope we shall know on some future day those cogent reasons, which justify a cruel outrage against humanity. Such a

spirit of gaming is gone forth, that I assert, Sir, the rapacity of the planters in St. Vincent's is nearly connected with that rage for making of fortunes, by the most destructive means, which gave such a shock to public credit in the course of last summer, and some step should be taken to limit their dangerous ambition, and uncommon avarice.

Mr. *Welbore Ellis*. I hear much of the humanity and beneficence of gentlemen in this House for the Caribbs and soldiery, but not a word for the poor planters, who have quitted their country and friends, and at a great expence purchased plantations of the public. Those people are entitled to protection also, and it is the duty of government to assist them with troops when their property is in danger.

Lord *George Germain*. I am astonished, Sir, to hear an hon. gentleman complain that the planters are not sufficiently protected. Before this expedition, they had six battalions; and will any gentleman pretend to say, that six battalions are not garrison enough for them? I have authority to assert, that the whole number of the Caribbs does not amount to 500 men, yet we are sending regiment after regiment to sacrifice, hunt down, and destroy those unfortunate people! Sir, I never was in that country, but the climate, I am told, is exceedingly bad. I am told, that if our men are exposed one night to the weather they will perish. One campaign would inevitably destroy our troops; and let me tell you, Sir, that as men are so scarce to be had, we should not be so lavish of them. We already find a great difficulty in recruiting. Our regiments cannot be completed on account of the various emigrations, and the averseness which prevails to the service throughout the kingdom. I recollect a circumstance that happened to one of our ships of war (the *Phoenix*) on her arrival at St. Vincent's; the captain was civilly invited on shore by the governor, the boat that carried him on shore had seven hands, and out of the seven six returned on board sick and died. After that, an officer and nine men went on shore to guard the water casks, and seven of them died. Such, Sir, is the climate that we are sending our troops to. The two regiments which the noble lord says are sent from North America have tents; but those tents, Sir, cannot preserve the men from excessive heats and damps: and we are destroying our men without a certainty of being able to

recruit them. Men are so scarce, from the continual drains of army and navy, and colonization, that I am assured we shall soon, unless some remedy is adopted, be in a miserable situation. Besides, what encouragement have men to enter in the service? to live, pardon me, to starve upon 6*d.* a day! The soldiers' pay since the first institution of an army has never been raised; the officers has repeatedly, but the soldiers never. No, Sir, in the famous Tyrone rebellion, in Ireland, when the Spaniards landed in that country, the soldiers had 6*d.* per day, and now, notwithstanding the great difference in the two periods, and dearness of provisions, they have no more. Indeed, Sir, I am astonished how they live; and considering our situation, I think we ought to be extremely cautious how we employ our troops; and I hope, as the noble lord assures us they can, that the Secretaries of State will furnish us with those cogent reasons which could render such a slaughter of men and waste of public money necessary in time of profound peace.

Here the debate ended, and the supply was voted for 17,070 men.

Dec. 11. Mr. *Thomas Townshend* said: Sir; when I mentioned the extraordinary expedition against the unfortunate natives of St. Vincent the other day, I was told it was improper; but while the affair is yet fresh in our memories, I wish the matter may seriously be enquired into. I am far from wishing to lay the least censure upon any part of administration, I only mean to have a general and impartial examination, that we may know why the poor Caribbs alone should be of consequence enough to engage the resentment of the British government, and employ the attention of the ministry, when no notice is taken of the conduct of other powers towards us: I therefore move, Sir, "That an humble Address be presented to his Majesty, that he will be graciously pleased to lay before this House, Copies of all intelligence that has been received by any of his Majesty's ministers, and of all applications to them, upon which it has been thought expedient to send an additional number of forces into the island of Saint Vincent's, together with Copies of the Orders which have been sent by any of his Majesty's secretaries of state, or secretary at war, relative to the employment of the said forces."

Lord *North*. I do not rise up to oppose the motion, as I heartily concur with the

hon. member for a full enquiry into the affair. When the matter was mentioned last Wednesday, I then promised that the necessary papers should be laid before the House; and I assured the House, that the expedient could, and would be justified. However, I cannot help thinking it extraordinary, that the hon. gentleman, while he publicly assures us that he means to speak only of generals, and boasts of his impartiality, should bring in administration in a parenthesis. Now, Sir, I am as eager for this enquiry as the hon. member can possibly be, and I hope he will have more impartiality shewn him than he has shewn us. I will not only prove the expediency of our conduct with respect to St. Vincent's, but explain to this House why we have been inattentive to the troubles surrounding us, and so particularly attentive to the Caribbs.

The motion was agreed to.

PAPERS RELATIVE TO THE EXPEDITION AGAINST THE CARIBBS, AND THE SALE OF LANDS IN ST. VINCENT'S.] Dec. 23. In consequence of the above Motion, the following Papers were laid before the House of Commons:

PAPERS RELATIVE TO THE EXPEDITION AGAINST THE CARIBBS, AND THE SALE OF LANDS IN THE ISLAND OF ST. VINCENT.

MEMORIAL of William Young, esq. first Commissioner for the Sale of Lands in the Ceded Islands, to the Lords of the Treasury; dated 11th April, 1767.

Right Honourable Lords;

In the 20th instruction, the commissioners for the sale and disposal of lands are directed always to take care that no survey of that part of St. Vincent, which is inhabited or claimed by Caribbs, be begun before they shall have received fresh instructions for that purpose; and always to notify to the governor general of the Grenades and neutral islands, or commander in chief for the time being, what parts of any of the said islands they intend to have surveyed, that he may assist and protect the persons employed in such service.

This instruction was given in 1764, in order to avoid any disturbances that might arise in St. Vincent from the native Caribbs, whose numbers, dispositions, and settlements, were not at that time sufficiently known.

The commissioners, in the course of their duty, having since discovered, that the windward side of the island, through which the Caribbs are dispersed, is by much the most extensive and finest part of it; and that very small and detached spots only are here and there cleared and settled by them, whilst large tracts through which they are scattered remained in wood, useless and unoccupied, were desirous that those lands might be surveyed and disposed of in a manner beneficial to his Majesty and the colony. They were the more earnest to get this accomplished, because they apprehended the present situation of these wild and lawless savages was dangerous to his Majesty's subjects already settled in their neighbourhood, and a great impediment to the future population and culture of an island, which they conceived the best of any ceded to the crown by the late peace: for these reasons, they communicated their sentiments to the lords commissioners of his Majesty's Treasury, and prayed to be instructed how to proceed.

As it seems by no means consistent with his Majesty's clemency, nor indeed the common rights of mankind, that those native Caribbs should be extirpated, it remains to be considered, how they may best be disposed of, without endangering the peace of the colony, and in a manner productive of their own happiness, as well as the future improvement of the country. In order that your lordships may receive such information as may be useful on this occasion, it will not perhaps be unnecessary to give a more particular account of the Caribbs, and the island of St. Vincent.

According to the best observations I have been able to make concerning the Caribbs, their numbers consist of about 2,000, including women and children. Some few of them are of a yellow complexion, descended from the original natives; the rest are the descendants of a cargo of negroes who were brought from Africa, and destined for sale at Barbadoes, about a century ago; but the ship, missing that island, was wrecked on the coast of St. Vincent, and the negroes gaining the shore, recovered their former freedom. The yellow Caribbs, who were the original inhabitants, are of an innocent and timid nature, and have been almost extirpated by those blacks; those who remain mix but little with them, and are very apprehensive of danger from their neighbourhood. The black Caribbs are easily

distinguished from any other negroes, by a custom they have of flattening the foreheads of their infants, in order that their race may be kept distinct. They are (excepting some few who have been connected with the French) an idle, ignorant, and savage people, subject to no law nor discipline, and scarcely acknowledging subordination to any chief: they speak a jargon of their own, which, added to an extreme jealousy of their liberty, a distrust of those they converse with, and a little affected cunning, make it very difficult to discourse or reason with them concerning their situation, and the arrangements necessary to be taken with respect to them. They go for the most part naked. All the men carry cutlasses, and many of them have fowling-pieces, which they usually keep bright, and in good order. They live with their families in thatched huts, dispersed through the woods, and are so little given to industry, that, though the soil of St. Vincent is perhaps the most fertile of any known, they cultivate only little spots scattered up and down, barely sufficient to raise such provisions as, added to what fish they catch and game they kill, are necessary to keep them alive. Upon their first arrival in the island, they settled themselves on the western side of it, which, although the worst and most mountainous part, they preferred, on account, no doubt, of the tranquillity of the sea, and the safety with which canoes and other small boats may fish and approach a leeward shore; for the trade wind, almost always blowing easterly in this region of the globe, occasions a rough surge, and often renders the windward coasts of these islands dangerous, and difficult of access.

The same inducements afterwards prevailed on some of the French from the neighbouring islands to insinuate themselves among them; the soil was found superlatively excellent, and others were continually attracted by the success of their countrymen, who had gone before them; in so much that, when this island was taken by his Majesty's arms in the last war, the leeward part of it was found to be extremely well settled by 4 or 5,000 French inhabitants from Martinico. It must be observed, that these settlers were first admitted by the consent of the Caribbs, from whom they obtained grants in lieu of brandy and other small presents; but having once got a footing, they gradually elbowed them out from the leeward

[VOL. XVII.]

part of the country, which is at present inhabited by the remaining French, now become British subjects, and many of his Majesty's natural-born subjects, who have become purchasers and settlers therein.

The importance and value of these possessions may be best known by an inspection of the sales sent home by the commissioners, which, when compared with those of Dominica, will be found to exceed them more than the proportion of three to one; although the leases granted on the part of the crown are nearly equal in both islands.

The commissioners have already, by sales and leases, &c. (conformable to the King's instructions) disposed of this side of the country; but it is so extremely rugged and broken, that the number of acres of cultivable land contained in it is much less than might otherwise be expected; for the internal part of the island is formed by a body of rude and impassable mountains, which, diverging in chains as it were, run down the western coast, and divide the land into a number of little fruitful valleys, each watered with a rapid stream, and separated from the others by large and steep hills: the valleys are now planting with canes, and will soon become valuable sugar plantations: the intervening hills are only proper for coffee, cocoa, and provisions.

The eastern, or windward part of the island, through which the Caribbs are at present irregularly scattered in the manner that has been before observed, and which the commissioners have prayed instructions to survey and dispose of, remains almost entirely unoccupied and in wood; but it is by far more extensive, more level, and a finer country than the part already disposed of; and as the soil is perhaps the best in the world, and it is admirably supplied with rivers, it would probably soon become a more valuable sugar colony than any possessed by the crown, unless Jamaica, which must be excepted only on account of its very superior extent. It seems the more necessary that means should be used for its speedy settlement, as St. Vincent, which is a small island of about 22 miles in length, and about 14 or 16 miles broad, is situated only eight leagues due south of St. Lucia; and as the leeward side of it is too much contracted by the mountains, to admit of a sufficient number of settlements and inhabitants to protect it against that growing French colony.

[2 P]

Perhaps it may not be amiss to remark, that the French king, till the late cession of this island to the crown of Great Britain, always affected to acknowledge it as the property of the Caribbs, and the latter have accordingly imagined they had the best right to it. However, when they perceived the English repairing thither at the conclusion of the peace, many of them were desirous of removing to St. Lucia, but they were refused admittance by the French governor.

They do not at this time appear to know what to think of their present situation; what will be acknowledged theirs, nor indeed what to claim; only as they have heard that the commissioners were ordered by the King not to dispose of nor survey any of the lands inhabited or claimed by them, till further orders; and as the utmost good faith has been preserved respecting them, they seem inclined to require more than they can possibly find useful, or indeed than they would otherwise have presumed to do. As matters now are, they certainly appear fit objects of his Majesty's clemency; and perhaps it were a curious speculation how best to dispose of them consistently with their own happiness, the peace and safety of the present British subjects settled in the island along with them, and the future population and culture of the colony.

If I may be allowed to speak my opinion, the sooner something is determined on this head the better; and as the island has been ceded in full right to his Majesty, and it is not to be supposed that so small a spot is or can be conjointly held between the King of Great Britain and its native savages, I beg leave to submit to your lordships' consideration the following propositions:

First, That instructions be forthwith sent out to the governor general of the Grenades, or, in his absence, to the commander in chief for the time being, and to the lieutenant governor of St. Vincent, and also to his Majesty's commissioners for the sale and disposal of lands, to the following effect: That means be contrived, that it may be known as speedily and generally as possible among the Caribbs, that the King is graciously pleased to consider them as his loving subjects, and will protect them in their freedom while they continue to demean themselves faithfully and peaceably, submitting themselves to be governed by the laws of Great Bri-

tain, or such laws as may hereafter be in force in the country, respecting free negroes, or otherwise.

And that, moreover, his Majesty has commanded his commissioners to survey and dispose of, with all convenient speed, all the lands situated and lying between the river Rebechi, windward, to Grandesable, and so round to Chateau Bellair. But that they are also directed to allot such lands as they shall judge convenient and sufficient to be allotted for the use, and as the property of the Caribbs, free mulattoes, and negroes now residing in St. Vincent, having regard always, in making these arrangements, to the future culture, population, and security of the island, as well as the comfort and satisfaction of the Caribbs themselves, who are expected to aid and assist the commissioners and surveyors in the performance of this necessary work; but will incur the King's heavy displeasure and severe chastisement, if they attempt to oppose them in the execution of his commands, so essential to their own happiness, and to that of his faithful subjects in the same island: for which purposes the necessary orders are given to the governors and commanders of his Majesty's fleets and armies in that part of the world, should they prove disobedient or refractory, contrary to his just expectation, and the favourable accounts he has hitherto received concerning them from his governors and commissioners.

The governor should also be instructed, that if it be found necessary, he is to assist and protect the surveyors, and others employed in the service.

2dly, At the same time that instructions to the effect just mentioned are sent out to the governors, &c. instructions to the following purport might be dispatched to the commissioners:

Forthwith to survey and dispose of, in a manner conformable to their former instructions, all the cultivable lands situated between the river Rebechi, windward, to Grandesable, and so round Chateau Bellair, and to cause the several allotments to be laid out and disposed of, in the quickest and least expensive method that can be contrived, consistently with the spirit of their instructions.

To allot such lands as they shall judge convenient and sufficient to be allotted for the use, and as the property of the Caribbs, free mulattoes, and free negroes, now residing in St. Vincent, having regard al-

ways in making these arrangements to the future culture, population and security of the island, as well as the comfort and satisfaction of the Caribbs themselves, whom his Majesty is pleased to consider as his adopted subjects, and who are to be provided for with the utmost humanity, and protected as long as they continue to demean themselves faithfully and peaceably.

In the course of this duty, whenever it is judged necessary for his Majesty's service, or the safety and importance of the colony, that the Caribbs shall be removed from their present huts and cleared grounds to some other part of the country, good, proper, and sufficient woodlands shall be allotted them in lieu thereof, and the Caribbs shall be permitted to continue to reside on their present cleared lands, until they shall have gathered all their provisions, built huts, and cleared and planted their other lands allotted in lieu thereof; for which purpose five years shall be allowed them from the date of these instructions, unless they are contented to remove themselves sooner.

That in such cases their former cleared lands are to be comprised in, and sold with, the plantation allotment of woodlands surrounding them, as contiguous as may happen to be most convenient, and on the removal of the Caribbs are to become the property of the person possessed of such surrounding or contiguous plantation, and not before.

That in consideration of these arrangements made, and the future removal of the Caribbs, they shall be paid for these cleared lands, so comprised and sold as before, at the rate of four Johannes, or 13*l.* 4*s.* currency per acre, according to survey, or the fairest computation that can be made, if such survey cannot expeditiously enough be executed.

That this money shall be paid them by the receiver in two payments; the first whenever the cleared lands shall be sold, the second at the expiration of five years from the date hereof; or sooner if he shall receive the certificate from the purchaser, that the Caribbs are actually and voluntarily removed.

That these cleared lands shall be put up at auction, at a price not less than 10*l.* sterling per acre, and that the money to be paid by the purchaser for these cleared lands, according to the price they may happen to sell for at auction, shall be paid to the receiver; one half down, the other

half at the expiration of five years, or when he shall receive a certificate that the Caribbs are actually removed. But the woodlands are to be paid for according to the usual instalments.

That the woodlands to be allotted to the Caribbs shall pay no quit-rent, and that they shall not be alienable to any white person, but possessed by themselves and successors in the manner they shall think fit to agree, provided always that they continue to demean themselves peaceably and like good subjects.

And lastly, that the commissioners shall give a certificate to the Caribbs, of the situation and quantity of land allotted them, which may be by survey, or, to save time and expence, by fair computation: and that these lands so allotted them shall be held by the Caribbs in families, or such manner as shall appear most to their satisfaction, and according to their customs.

That a list of these Caribbs, and their families, and of the lands they hold by certificate, shall be transmitted by the commissioners to the governor in chief and lieutenant governor of St. Vincent, who shall receive their declarations of fidelity to the King, as they happen to come in, and affix the great seal, if thought necessary, to the commissioners' certificate of the lands they hold; but that no fee whatsoever shall be taken by the commissioners, or governor, or any person, from the Caribbs for any thing they do in consequence of these instructions. Having delivered my sentiments on this occasion in obedience to your lordships' commands, I conclude, and have the honour to be,

&c. (Signed) WILLIAM YOUNG,
Commissioner and Receiver.

London, April 11, 1767.

INSTRUCTIONS from the Lords of the Treasury to the Commissioners for the Sale of Lands in the ceded Islands.

Whereas his Majesty was pleased, by his instructions bearing date the 24th of March 1764, to direct you to take care that no survey of that part of the island of St. Vincent, which is inhabited or claimed by Caribbs, should be begun before you should have received fresh instructions for the purpose: and his Majesty was pleased at the same time to command you, to apply to the lord high treasurer, or commissioners of the Treasury, for the time being, for further instructions, orders, and direc-

tions, as you should, from time to time, see cause and occasion for so doing: and whereas a Memorial has been laid before us, by William Young, esq. commissioner and receiver, representing on your part as well as his own, that in the course of the execution of your commission in the island of St. Vincent, you had procured and obtained more perfect information and knowledge of the situation and settlements of the Caribbs, and of the extent, soil, present condition, and improvable value of the quarter of the islands which they occupy and inhabit, and of their numbers, disposition, habits, and manner of living, than could be had at the time when his Majesty's instructions were given to you, for the regulation of your conduct in this respect; and the Memorial states, that it appears to you from the discoveries you have made, and the accounts you have received, that the number of the savages, who pass under the general denomination of Caribbs, do not exceed 2,000 persons, including women and children. That the natives and original inhabitants of the island constitute but an inconsiderable part of this computation, having been much reduced and almost extirpated by a race of free negroes, from whom, though they live intermixed, the native Caribbs are easily distinguishable, both as being of a different countenance and complexion, and of a nature and character much less fierce and intractable. That these two tribes of savages inhabit the eastern or windward part of the island, living in huts, irregularly scattered and dispersed in the woods, and for the most part without law, discipline, or subordination. That except some spots and patches of cleared lands, on which they raise a small quantity of provisions (which added to the fish they take are necessary for their subsistence), the whole tract through which they are thus dispersed lies covered with wood, uncultivated and unoccupied, without benefit to the colony, or use to the nominal owners, though it is represented to be, in richness of soil, supply of rivers, and fitness for the growth and manufactory of sugar, more valuable than any of the lands already sold by virtue of your commission. And the Memorial further represents, that it is your earnest desire and recommendation, that you may receive from us instructions and power to survey, allot and dispose of, the said lands in the windward part of the island, pursuant to the tenor of your former instructions; and in case

the necessity of the service shall require it, to remove the Caribbs to some other quarter of the island, which may be found as comfortable for their habitation, and as convenient for their support, as that which they now possess. And it is suggested in the said Memorial, that under the precautions therein proposed, without respect to the notice to be given, the terms to be offered, and the time to be allowed them, it is your opinion that this removal may be brought about without endangering the peace of the island, and without the necessity of using any act of force or violence.

Now we, having fully and maturely considered the said representation, and the propositions which it contains, think fit to approve of the plan for surveying and selling the lands, on the windward side of the island of St. Vincent, now possessed and inhabited by the Caribbs, and we direct you to observe the following special instructions in the execution of this very important service.

1. You shall forthwith survey, and dispose of, in a manner conformable to your former instructions, all the cultivable lands, situated between the river Rebechi, windward, to Grand Sable, and so round to Chateau Bellair, and cause the several allotments to be laid out and disposed of, in the most expeditious and least expensive method that can be contrived, consistently with the rules and spirit of your general instructions.

2. You shall take no step towards the removal of the Caribbs, before notice of the whole arrangement and design shall have been given to the principal persons amongst them, in such manner, and by such mediation, as you shall judge most proper, and until they may be made to comprehend and understand the terms and conditions under which it is proposed; and after these precautions, when you shall come to the execution of the arrangement, let especial care be taken that every motion be conducted with the gentlest hand, and in the mildest manner.

3. In fixing on the quarter of the island destined for their new settlement, let every proper indulgence be shewn to them, and let the lands allotted to them in exchange be convenient for their habitation, sufficient for their support, and in point of situation adapted to their manner of living.

4. You shall give certificates to some of the principal persons amongst them, of the situation and quantity of land allotted to them, which may be made by survey,

or, to save expence and time, by fair computation.

5. Let the absolute property of the lands so allotted be assured to them and their children, in such manner as shall be found most to their satisfaction, and most agreeable to their customs.

6. Until they shall have gathered in all the provisions sown on the cleared lands they now occupy, and shall have cleared and planted other lands in the country allotted to them, and built convenient huts for their reception, you shall permit them to remain without molestation in their present situation; and let five years from the date hereof be allowed them for these purposes, unless they shall voluntarily, of their free will, remove themselves and their families sooner.

7. Under such terms and conditions (in the performance of all which, we order and enjoin you to observe the strictest good faith with the Caribbs) let the cleared lands, which they now occupy, be comprised in, and sold with the plantation and allotment of woodland which surrounds, or lies contiguous to them, as may happen to be most convenient; and on the final and complete removal of the Caribbs, let such cleared lands become the absolute property of the respective purchasers of such surrounding or contiguous allotments.

8. You shall put up such cleared lands at a price not less than ten pounds sterling per acre; and let it be declared as one of the conditions of sale, that the purchase money of such cleared lands shall be paid to the receiver in two payments, one half thereof at the time of such sale, and the other half at the expiration of five years, or when a certificate shall be received that the Caribbs are actually removed.

The woodlands shall be put up to auction, and sold and paid for in the manner, and by the instalments, directed in your former instructions.

9. In consideration of their consent and submission to the removal, you shall pay, or cause to be paid to the several Caribbs, owners of such lands, or to the persons having authority to receive the same, for the cleared lands so comprised and sold, the clear sum of four Johannes, or 13*l.* 4*s.* currency, for each acre, according to the actual survey, or the fairest computation that can be made, and at that rate and proportion for any quantity of cleared land less than one acre.

10. This money shall be paid to the Ca-

ribbs by the receiver in two equal payments; the first whenever the cleared lands shall be sold; the second at the expiration of five years from the date hereof, or sooner, if a certificate shall be received from the planter, that the Caribbs are voluntarily and actually removed.

11. If at the end of the time allowed them for their removal, the Caribbs shall not have prepared huts in the manner before mentioned, you shall apply to the deputy governor, or commander in chief of the said island, that he may give orders for erecting the same by the planters, who shall have purchased the cleared lands, which the Caribbs now occupy, or by any other proper persons, deducting any reasonable expence on that account, out of the last payment to be made to the Caribbs, for whose use the said huts shall be erected.

12. No quit-rent shall be reserved for the lands allotted to the Caribbs, but let the absolute right and property thereof be assured to them and their descendants in such manner as they shall desire, according to their usages and customs; and let it be declared to them, that they and their children are to hold and enjoy such lands limited by no restriction, except that of not being allowed to alienate any part of them to any white person, and subject to no other condition, except that of behaving themselves quietly and peaceably like good and faithful subjects to his Majesty.

13. If in the course of the arrangement it shall appear to you, that the remains of the native Caribbs desire for their security to be separated and settled apart from the free negroes; and if you shall in your discretion judge, that such separation can be made and maintained without hazard to the peace, or inconvenience to the property of the colony, you shall comply with such their desire.

14. You shall transmit accounts of the numbers of the Caribbs and their families, and of the lands which they respectively hold, by certificate to the governor general, and to the commander in chief of the island of St. Vincent, for the time being, in order that their declarations of fidelity to the King may be received, as they shall from time to time come in for that purpose; and that the seal of the island may be affixed to such certificates, if it shall be thought necessary.

15. No fee whatsoever shall be taken by you, or by any person employed in this service, from the Caribbs, for any

thing which shall be done in consequence of these instructions.

We declare that these instructions, and every part of them, shall extend to all free negroes, and free mulattoes, inhabitants of the said island of St. Vincent, and that they shall be entitled to the same advantages and indulgencies in every respect as are hereby intended to be granted and secured to the Caribbs.

LETTER from the Earl of Shelburne to Governor Melville, dated Whitehall, 18th January, 1768.

Sir; the lords commissioners of his Majesty's Treasury having given instructions to the commissioners for the sale of lands in the ceded islands, for the sale of that part of St. Vincent's which is inhabited by the Caribbs, situate between the river Rebechi, windward to Grand Sable, and so round to Chateau Bellair; I am to signify to you his Majesty's commands, that you give every support and assistance in your power to the said commissioners in the execution of their instructions. I am, &c. SHELburne.

LETTER from Lieutenant Governor Fitzmaurice to the Earl of Hillsborough, dated Grenada, May 11, 1769.

My lord; I take the earliest opportunity of communicating to your lordships the accounts I have received of the disturbances occasioned by the Indians which have lately happened in the island of St. Vincent, as contained in two letters from thence, of which I have the honour to transmit copies to your lordship.

I have immediately sent express to St. Vincent, to acquaint the president commanding in that colony, that I am ready to send from the other islands of this government, whatever reinforcements of men or supply of ammunition which can be afforded, and may be thought necessary for the safety and tranquillity of the inhabitants.

I have also written to the board of commissioners for the disposal of lands, which happens now to be held here, that they may depend on every assistance they can desire which is in my power to give.

And as my presence in St. Vincent may contribute in some degree to dissipate the alarms which seem to be spread throughout that colony; and may the better enable me to give such directions as circumstances may require, I propose sailing from hence as soon as some necessary business

here will permit, which will be in a few days.

I think it my duty to acquaint your lordships, that I have been this day assured, upon authority to which I may venture to give some credit, that those Indians or Caribbs declared their intentions not long since of sending a deputation to the French governor of Martinique, to whom they were formerly taught, by the French missionaries sent amongst them, to pay the most implicit obedience, to know his advice in relation to the measures they should pursue concerning their lands in St. Vincent; it is added, that the French governor advised them to submit to his Majesty's orders; but their conduct has proved that either they thought proper to disregard such advice, or that an opposite one was given to them privately. I have sent for the person to whom the Caribbs mentioned this application, as well as the subject of the conference: I have not as yet seen him; but if, upon a strict enquiry, I find that such a deputation was sent, and was received by the governor of Martinique, I may be induced to write to him upon the occasion. A good understanding has hitherto subsisted between him and the neighbouring British governors. His answer, and whatever other events may occur in relation to these people, I shall take the earliest opportunity of communicating to your lordship. I have the honour to be, &c.

ULYSSES FITZMAURICE.

LETTER from William Yonge, esq. first Commissioner for the Sale of Lands, to Harry Alexander, esq. President of the Island of St. Vincent, dated St. Vincent, May 1, 1769.

Sir; from intelligence which I can depend upon, communicated to me by Mr. Simpson, his Majesty's chief surveyor of lands in the ceded islands, it appears that the Caribbs have expressed great uneasiness and dissatisfaction at the endeavours of the commissioners to carry the King's instructions for the survey and disposal of lands in the island into execution, as far as respects the lands inhabited or claimed by them: and they have in consequence already assembled themselves to the number of upwards of 200 well armed (and are hereby increasing), with a firm determination to prevent by force, if necessary, these instructions being accomplished.

I have since seen captain Wilkie, the

officer commanding that part of his Majesty's 32d regiment stationed in this country, as well as several other officers and gentlemen who have been witnesses to the appearance, behaviour, and resolution of this armed body to oppose the detachment of soldiers destined to support the King's surveyors in the execution of their duty; and I am fully confirmed, by their united information and opinion, that the instructions from the lords of the Treasury to the commissioners for the sale and disposal of lands on the windward side of St. Vincent, cannot at present be executed without greatly endangering the security and peace of the country, or without the support of a much greater force than it appears possible to raise in it at present, for that purpose.

By examining carefully our instructions I find these words, that they are given on a suggestion that they may be brought about without endangering the peace of the island, and without the necessity of using any act of force or violence. And moreover I afterwards observe the following command, viz. You shall take no step towards the removal of the Caribbs before notice of the whole arrangement and design shall have been given to the principal persons among them, in such manner and by such mediation as you shall judge most proper, and until they be made to comprehend and understand the terms and conditions under which it is proposed; and after these precautions, when you shall come to the execution of the arrangement, let especial care be taken that every motion be conducted with the gentlest hand, and in the mildest manner.

I have herewith the honour to enclose you an exact copy of all these instructions, which we have ever most carefully complied with; and as one of his Majesty's commissioners for the sale and disposal of lands in the ceded islands, I now think it my duty to acquaint you, that in obedience to these instructions, I can no longer require from you the aid or assistance of his Majesty's troops to support the surveyors in carrying them into execution.

I would not lightly desist from an undertaking which it is my duty to see performed; but as it is apparent from the spirit, as well as letter of our instructions, that nothing is to be effected in the present case by a violence or compulsion that might endanger the peace and security of this infant and weak colony, I am clearly

of opinion that nothing on the part of the commissioners is more to be attempted here, till the King's further pleasure be known.

I shall therefore immediately forbid the surveyors to proceed any longer in tracing the road through the Indian country, or in their surveys; and shall take the earliest opportunity of going out in person to meet the Caribbs, and acquaint them of my resolution as a commissioner acting in conformity to his Majesty's commands. I thought it necessary to communicate my sentiments to you on this important and critical situation, and have the honour to be, &c.

WILLIAM YOUNG.

LETTER from Harry Alexander, esq. President of St. Vincent, to Lieutenant Governor Fitzmaurice, dated St. Vincent, May 3, 1769.

Sir; I had the honour of writing to you last by captain Halliburton, and I now take the earliest opportunity to acquaint you of the very critical situation this island has since been in, from the turbulent spirit of the Caribbs, arising from their jealousy and dissatisfaction in the measures of government, concerning the intention of selling and disposing of those lands in their occupation, and the tracing roads into their country. I was first warned of their being in this disposition by a letter from Mr. Simpson, his Majesty's chief surveyor, on Wednesday last, and that the surveyors had been by the Caribbs insulted, and obstructed in proceeding with the trace of the road; requesting, that the guard then posted at some distance from where the surveyors were at work should advance to support them, and that a house should by Friday or Saturday be ready at the end of the road for the reception of the guard. I accordingly gave orders to the commanding officer, that the guards should advance to that new post; which was done on Saturday morning, but with such opposition from the Caribbs, that nothing but the temper and prudence of the officer could have preserved them from an immediate action; which probably in such a country, and under such circumstances, might have proved fatal to so small a handful of troops, being only 40 in number, to encounter in a woody country, under every disadvantage, a body of Indians upwards of 200, well armed, firmly resolved, they said, to keep their freedom, and preserve their lands. The officer, however, thought it his duty to keep the

post, and wait farther orders. The day following I received advice from captain Wilkie, the commanding officer of that part of his Majesty's regiment quartered here, that the Caribbs had cut off the communication between him and the troops he had with him posted at Fort Tyrrell, and the advanced guard in the Caribbs country on the road; and that their situation must be very critical indeed, as by that means the guard was cut off from every supply of water and provisions, and sixteen miles advanced in the heart of the Caribb country, surrounded by a numerous body of vile savages, who had impudently commenced hostilities by obliging the surveyors to make their escape in the best manner they could by flight, leaving their baggage and every thing behind them: upon which the Caribbs set fire to their houses and burnt them to the ground. Upon this advice, all the troops that could be mustered from Kingstown immediately marched as far as Tyrrell's fort; and from thence, by the dawn of yesterday, I marched, with 100 men, to relieve the guard on the road, joined by as many of the principal gentlemen of the country as in so short a space of time could be collected together, with their white servants, and a proportion of their trustiest slaves. By eight o'clock we got within a mile and a half of the advanced party of the Caribbs, in number, as I was informed, upward of 200, which shortly increased to about 100 more. The troops, then fatigued with a long march, I ordered to halt, that they might rest, and I gain intelligence, and to take the advice of the gentlemen of his Majesty's council, the commanding officer of the troops, governor Young, and the principal gentlemen of property in the country, then present, as to the measure I should direct to be pursued, as well as to take the opportunity of reading a letter from governor Young, written by him as a commissioner, and by himself put into my hands on the march, which till then I had not leisure to peruse; a copy of which I do myself the honour to inclose to you; and from which you will see, notwithstanding how sensible I was his Majesty's government had by those wretches been violently insulted, yet from his Majesty's boundless humanity and tender disposition respecting those people, I found myself restrained from any act of violence such as I could justify, without risk of incurring his Majesty's displeasure, unless driven to it from necessity. From mature

deliberation upon these matters, assisted by the advice of the council and governor Young, whose judgment in service I have a pleasure in owning I pay great deference to, I was advised and led to conceive, the most essential service I could do to this colony in its present situation, and most consistently with his Majesty's royal instructions, by and with the advice of his privy council, to his commissioners, would be carefully to avoid coming to hostilities with these creatures, unless under the necessity of it to regain the advanced guard then surrounded by them; and the better to effect that purpose, to acquaint the Caribbs by message, that I was not come to make war with them; that his Majesty had not yet sufficiently instructed his governors respecting that; therefore I only came to demand a safe return to the advanced guard; and that as the carrying a road into their country had given so much uneasiness, governor Young, as his Majesty's chief commissioner, would give directions, that the surveyors shall desist from proceeding any farther, till his Majesty shall be pleased to direct his governor what shall be his farther intentions in regard to them; and if they behaved themselves peaceably and quietly, every thing should remain as it was before, till his Majesty's farther instructions shall arrive, and of which they shall have a notice. This they readily agreed to, and promised to return peaceably to their homes: the guard returned unmolested, and I withdrew the troops to their quarters without the discharge of a musket on either side; and for a time, I hope it will be short, I quitted that fine cream part of this island, with a regret I cannot express to you. However, as I write this letter in a hurry, merely to give your honour a detail of this matter, lest, from a misrepresentation, you should have been uneasy about the colony, I shall not, therefore, touch upon any other subject. We are now, I think, in as much peace as at any time before; yet we ought not to consider ourselves secure, but to provide against the worst; for on this late occasion we were, I mean the inhabitants, men with good hearts and hands, but without arms to employ them. Respecting these considerations, and a proper representation of this people, and the lands they occupy, to his Majesty, is not the present design of this letter; that, Sir, will be made to you very shortly, in a more full and regular manner.

The happiness I have had in governor

Young's being on the spot, and co-operating in every thing with me, will only be equalled in the enjoyment I shall have in your approbation of the measures I have taken, if I am lucky enough to have it. The alacrity of the officers and troops, imitated in every instance by the inhabitants, gave me much pleasure, and a full confidence they were ready to do their duty; and much wished his Majesty's mildness had been less, and his instructions to his commissioners less positive respecting the Caribbs, whose insolence they were impatient to chastise, and unhappy in the disappointment, nothing but order and discipline restraining them. I have the honour to be, &c.

HARRY ALEXANDER.

The MEMORIAL of Richard Maitland, Agent for the Island of St. Vincent, to the right hon. the Earl of Hillsborough, one of his Majesty's principal Secretaries of State, &c. &c.

Humbly sheweth; that before the island of St. Vincent was ceded to the crown of Great Britain, the French had settled and planted part of it with coffee and cocoa; but the far greater part was possessed, though little cultivated, by the Caribbs.

That the lands, formerly occupied and deserted by the French, have been chiefly purchased from the crown, by our own natural-born subjects, at prices far exceeding the most sanguine expectations; buildings erected, negroes, cattle, and every implement necessary for making sugar, provided at great expence. Many estates are now completely settled, which promise success beyond any former example, both with respect to the fertility of the soil, and the excellent quality of the sugar.

That besides the sugar estates, there are many plantations of coffee, and cocoa, chiefly possessed by the French, who still remain and hold their lands by leases from the crown.

That from the pleasing prospect of success, the purchasers thought themselves happy; till they were alarmed with the account of between two and three hundred black Caribbs having stopped the surveyors employed by the crown in laying out and making a road round the island.

That from what passed between some of these black Caribbs and the surveyors, as well as the account given by captain Patrick Wilkie, of the 33rd regiment, to the honourable Harry Alexander, the

[VOL. XVII.]

president, it appears, the Caribbs were determined not to suffer the surveyors to proceed farther on their business; nor would they let the party of soldiers who guarded them go to their new barracks at Mercerika, but pulled down the house which was lately built, after having in vain attempted to burn it, the thatch being green. In short, that they denied any subjection to his Majesty, and were determined to preserve their independence.

That as soon as sir William Young, the first commissioner for the sale of lands, was informed by the officers of the regiment and surveyors, as well as by several other gentlemen who had been witness to the appearance, behaviour, and resolution of this armed body, to oppose the detachment appointed to support the surveyors, he acquainted the president, that the commissioners could not at present proceed to execute their instructions for the disposal of the lands, without endangering the peace and safety of the colony.

And as their instructions ordered them not to use any coercive means, he had forbid the surveyors to proceed farther, but that he would go in among the Caribbs and inform them of his resolution to obey his Majesty's commands, which were, to observe the most humane conduct towards them.

That the president, in consequence of this representation from sir W. Young, ordered the troops to be withdrawn from the advanced guard, and called the council and assembly, to communicate to them the steps which had been taken; and to consult what was proper to be done in so critical a situation, when their lives and fortunes might all be in danger, if these infatuated savages should be underhand aided and influenced by our secret enemies and rivals at Martinico. The council and assembly, sensible of their danger, resolved to address his Majesty for such immediate aid as he in his great goodness shall think necessary for their present circumstances. They also resolved to put themselves in the best posture of defence in their power, to guard against their dangerous situation from an armed force in actual rebellion in the heart of their country, and wait with anxiety till his Majesty's pleasure was known. Sir William more than once, afterwards, went out to meet their chiefs; but they would not give him an opportunity of speaking with them.

Your lordship knows the Caribbs are two distinct bodies, viz. the aborigines or

[2 Q]

yellow Caribbs, an inoffensive quiet people, no ways concerned in the present rebellion; the others (the black Caribbs) are the descendants of a cargo of Guinea slaves, stranded there many years ago; who after they had been humanely received by the ancient inhabitants, soon repaid their hospitality with ingratitude, and have now almost extirpated them. The runaways from Barbadoes, Martinico, and Guadalupe, have from time to time increased their numbers, and enabled them to gain the superiority of the yellow Caribbs; and now they entice the slaves of our own planters in the island, offering protection and liberty to all who will join them. And what adds to the danger from these savages, is their being supplied with new fire-arms from the French islands, with which they keep up a close correspondence. From this your lordship must think them bad neighbours, even in time of peace; and that in time of war, connected as they are, every thing is to be dreaded from them.

Your memorialist humbly begs your lordship to take these matters into consideration, and to intercede with his Majesty, that he may be graciously pleased to order some additional troops to be sent immediately to the protection of this valuable infant colony, and to give such directions about the disposal of the black Caribbs, as he shall in his wisdom think most prudent, and your memorialist shall ever pray, &c.

ADDRESS of the Council and Assembly of St. Vincent to the King.

To his most excellent Majesty;

We your Majesty's most dutiful, loyal, and faithful subjects, the council and assembly of the island of St. Vincent, inviolably attached by every tie of duty and gratitude to your Majesty's person and government, beg leave to return your Majesty our most sincere and humble thanks for the support and protection that we have hitherto enjoyed; and we most humbly beg permission to approach the throne, and lay before your Majesty the dangerous and distressed situation of this colony.

Your Majesty's natural-born subjects purchased lands at very high prices, with an intention of cultivating them, and had met with success beyond the most sanguine expectations, with the greatest probability of rendering this one of the most flourishing of your Majesty's sugar islands, till unexpectedly their properties are rendered

very precarious, and their lives endangered, by a rebellion of the negroes, commonly called black Caribbs; principally the descendants of runaway negroes from Barbadoes, and the other neighbouring islands; who, being joined by runaway slaves from the present inhabitants, in great numbers have assembled themselves in arms in the windward part of this island, without the least provocation from the inhabitants, and have destroyed the highways, and prevented all communication betwixt the different parts of this island; daily enticing their slaves to join them, detaining others by force who accidentally fall into their hands, promising them their liberty, arms, and lands, provided they would join and assist them in totally extirpating the white inhabitants; insulting your Majesty's subjects, forcing from their habitations the original yellow or red Caribbs, a harmless and well-affected people, who first afforded them an asylum; and most undutifully and ungratefully denying they bear any allegiance to your Majesty, and in disobedience to the laws contemptuously carrying off tobacco, provisions, and other produce to the French islands, and importing their manufactures, arms, ammunition, and spirituous liquors; which not only make their residence in the country claimed by them a very great detriment to the settlement of the colony, but likewise prevent the cultivation of that valuable and extensive tract of land, which while in their hands lies almost entirely uncultivated.

The paternal care your Majesty constantly shews your subjects in every part of your dominions, however distant from the throne, encourages us to hope for your protection against these savages, by such effectual measures being taken with them, as may prevent their being dangerous in time of peace, or employed in time of war by your Majesty's enemies in harassing from within, while those from without attack this defenceless island: having but very few regular troops remaining, and being unprovided with forts, batteries, artillery, or warlike stores, the expences of providing which would be too great for an infant colony; but which we most humbly hope to be supplied with from the extensive protection afforded to every part of your Majesty's dominions against the insults of your enemies.

It remains for us most ardently to pray that your Majesty, rich in every domestic bliss, may long, very long, and happily

reign over a free and grateful people; and that there may never be wanting a prince of your royal House to sway the sceptre over these realms to the latest posterity.

LETTER from the Earl of Hillsborough to Lieutenant Governor Fitzmaurice, dated Whitehall, 4th August, 1769.

Sir; his Majesty has given the fullest consideration to the state of the island of St. Vincent, as represented in your letter, No. 28, and in the address of the council and assembly which accompanies it.

The King trusts that the prudent measures you have taken to supply the inhabitants with arms and ammunition, will in some degree remove their apprehensions of any immediate danger from the Caribbs, and dissipate the alarm they seem at present to be under; but if these savages should continue in a state of hostility, and you should not be able, with the force which may be collected from the other islands within your government, to reduce them to a proper submission to his Majesty; in that case it is his Majesty's pleasure, that you do make a requisition from the commander in chief of his Majesty's forces in North America, for such an additional number of troops as you shall think absolutely necessary for that purpose; which requisition general Gage will receive the King's command to comply with, if it can be done consistently with his Majesty's service on the continent. But I have it particularly in command from his Majesty, to signify to you his pleasure, that if you shall find it absolutely necessary to make any requisition of troops from major general Gage, you do at the same time transmit to him a very full and explicit representation of the state of the island, together with the most minute explanation of your reasons for making such requisition, and the circumstances which induce you to fix upon the number of men you shall think fit to require. I am, &c. HILLSBOROUGH.

LETTER from Lieutenant Governor Fitzmaurice to the Earl of Hillsborough, dated St. Vincent, June 10, 1769.

My lord; immediately after I had the honour of writing my letter, No. 30, from Grenada, I sailed from thence for this island. Upon my arrival here I found the Caribbs were apprehensive that there was a design, not only of depriving them of their grounds, but also of reducing them into slavery, notwithstanding the very

particular pains that had been taken by his Majesty's commissioners, to explain and make known to them the King's most gracious and humane intentions to preserve them in their freedom, and to allow them good, proper, and sufficient lands for their support, maintenance, and comfort.

Those among them who live upon the borders of that part of the island which is claimed and solely occupied, though little cultivated, by them, being somewhat more civilized than the rest, and awed perhaps also by the neighbourhood of white persons, seemed to acquiesce in the measures, and confide in the promises of government. But they who live more remotely from the settlements, partaking of that suspicious disposition which is natural to savages, however apparently submissive and even satisfied when present at any conference, cannot easily be reconciled to the vicinity of white people, whose gradual and successful intrusions upon their Caribb neighbours they are sagacious enough to have remarked.

The situation of the windward part of this island makes an intercourse in open canoes between them and the French inhabitants of St. Lucia both short and easy; there they sell tobacco, Indian provisions, hammocks, ozier baskets, in exchange for guns, cutlasses, gunpowder, and a few manufactures. They are of a disposition so little bent to industry, and their wants are so easily satisfied, that the amount of this trade, which it will not be a little difficult totally to prevent, is very inconsiderable, nor otherwise important than as it serves to preserve the influence which a foreign colony maintains over these his Majesty's subjects, which might be turned to a very fatal purpose to the rest of the inhabitants of this island, and is partly the cause of the present uneasiness. Many of the inhabitants of St. Lucia formerly lived in St. Vincent, but abandoned their estates here, after it was ceded to his Majesty; they consider the present possessors as usurpers of their property, and retain an irreconcilable hatred to the English name. These people are exceedingly diligent in working the weak minds of Caribbs, already prejudiced and suspicious, into a distrust of the British government; they have propagated a report, as those Caribbs are mostly descended from a parcel of slaves bound in an English ship from Africa to Barbadoes, but wrecked on the eastern coast of St. Vincent, that the heir of the owner of the ship

and slaves has lately applied to have the Caribbs sold as his property, and for his benefit. The Caribbs cannot but be alarmed at these reports, and are led by their apprehensions to attribute every measure of government to a fixed design of bringing about the purpose of enslaving them. The road which was lately begun through the country by directions of the commissioners, they will not allow to be with any other view. They have a lively remembrance still of the attempt which was made many years ago by the French to make them slaves; the ill success of the French on that occasion gives them confidence that future attacks upon them will be attended with a similar event. They have been since accustomed to consider themselves as perfectly independent. The French inhabitants in St. Vincent derived their titles chiefly from purchases made of these savages. The consciousness of the superiority of their strength and numbers was attended with the ferocity with which such a sentiment is generally accompanied in savage breasts; and the activity and hardness of their disposition, which they derived from their African ancestors, were not as yet lost by their intermixture with the red or original Caribbs in these climates. It was formerly their practice to burn the plantations of the inhabitants with whom they happened to be offended; but it was the French policy to caress and bear patiently every outrage from them. Many of the Caribbs have been baptised by missionaries from France; most of them speak corruptly the language of that country. Pains were taken, in the late war, to instil into their minds a hatred for the English. Some of them are said to have assisted in the defence of Martinique, when besieged by our forces; they have gradually been led to consider the governor of that island as their protector, though they affect not to acknowledge the sovereignty of any prince. Upon some apprehensions which they conceived of designs against them, they applied to the governor of Martinique, about two years ago, for permission to settle in the island of St. Lucia, which is dependent upon his government, but they were refused. About seven months ago, soon after his Majesty's commissioners had given directions for surveying and laying out lots of lands for sale on the windward side of the island, the Caribbs declared their intentions of opposing by force any attempt to carry those

measures into execution beyond a river called Niambou, which they chose to consider as their boundary. I had the honour of acquainting your lordship, at the time, of these threats, and also of the measures which I have taken for the support of his Majesty's commissioners. When the Caribbs found that preparations were made to pass that river by force, and that there were troops sent to support the persons employed by the commissioners, they then thought proper to desist from their first pretensions: but they continued to consider, with an evil and jealous eye, the progress that was making in the admeasurement of the lands which were claimed, though little cultivated by them, as well as the knowledge which was daily acquired of the country, by the constant intercourse into, and the road made through it. The difference of manners, languages, and prejudices gave also rise to various disgusts on their part, trifling considered separately, but accumulated together, and added to their general suspicions, exasperated them at length to such a degree, that they actually sent several of their chiefs to the governor of Martinique, requiring his advice, protection, and assistance. He has declared to a gentleman of this island, and he has written before my late arrival here to the president of the council, that he advised them in the strongest terms to submit to whatever measures his Majesty should be pleased to ordain concerning them. Protection and assistance he positively refused them. However, soon afterwards, as the surveyors were advancing towards the settlements of the fiercest and least civilized Caribbs, they began to disturb and harass them in their operations, and at last proceeded to such threats and ill usage as compelled the surveyors to desist and retire.

A detachment of forty men of the 32d regiment being sent to protect the surveyors, the Caribbs appeared to the number of about 200, armed with fusees, cutlasses, bows and arrows, and threatened they would not permit any road to be made through their country, declaring they owed no sovereignty to any prince; that not being subjects to the king of France, he could not cede them to the king of Great Britain. That the whole of the island of St. Vincent formerly belonged to them; that they had gradually given away half on the leeward part to the French settlers, who had come hither from time

to time, which half might be ceded to the British crown; but that they were determined to preserve the remaining half or windward part, to themselves in perfect independency. The detachment however remained some days in the post to which it was sent, without any attack on the part of the Caribbs, but the surveyors chose to retire; the Caribbs burned their temporary huts, destroyed their utensils, broke up the roads lately made in several places, and held in every respect such a conduct, and such discourses, as persuaded the president of the council, his Majesty's first commissioner, and indeed most persons in the colony, that there was no likelihood of prosecuting the survey and sale of those lands without endangering the peace of the island, or without committing acts of violence. As these were circumstances in which the commissioners have understood that they were not to proceed upon the execution of their additional instructions, for the disposal of the Caribb lands, and also as they were requested by both houses of the legislature here to desist from any sales, for the safety of the colony, they have accordingly postponed them until they shall receive further orders from government. Since the retreat of the persons employed by them, and of the troops intended for the support of these from the windward side of the island, the Caribbs have burned the remaining huts which had been erected there for the use of the troops, surveyors, and their slaves; have felled more trees in some parts of the roads, in order to obstruct the passage; and have committed some trifling ravages on their neighbours. The confusion, which has been much increased by false alarms, that they were coming down to destroy and burn the plantations and inhabitants on the leeward part of the island—though it appears that no such resolution had been formed—yet the lawless and savage disposition of these Indians, their fluctuating temper, the suddenness of their resolves, their proneness to excess from caprice and drunkenness, a knowledge of the ravages committed by them formerly on the slightest pretences, the influence they are under to foreigners and disaffected and ill-disposed persons, their quick sense of the supposed injuries intended them, and the insolence and inclination to violence, so natural to savage minds, on the victory they imagine they have gained, by the measures of government not taking place respecting their lands, have been the

subject of much uneasiness to this colony, when added to the consideration of the small number of white inhabitants, the few troops, and total want of fortified places.

In this state I found the island when I arrived, and have endeavoured to restore tranquillity by every measure in my power. I have been among the Caribbs, and have issued a proclamation concerning them in the English and French languages, of which I have the honour to inclose copies to your lordship. I have ordered four companies of the 32d regiment from Dominica to join the five already here, which leaves but one regiment among all the other islands of the government. I have given directions for some pieces of ordnance from Grenada, to defend an eminence near the principal town, which is intended for the retreat of women and children, and for depositing records and valuable effects. I have applied to admiral Pye for a ship to cruise between the islands of St. Vincent and St. Lucia, to prevent or obstruct the intercourse between the Caribbs and the inhabitants of the latter island; and after the maturest consideration, I thought I could not, without impeding his Majesty's service, and exposing this colony to much danger, avoid yielding to the earnest solicitations of the people, in giving my assent to an act for immediately raising a militia in the island, after having taken the utmost precaution, that in its several clauses it was conformable to the instructions transmitted to me upon that subject. Your lordship will receive an authentic copy of this act by this conveyance, together with the minutes of the council, and proceedings of the assembly. The intent of this act is a security in the present exigency, and would be entirely defeated, were it to contain a clause suspending its execution till his Majesty's pleasure were known; and I have therefore, in this one instance, ventured to deviate from the letter of my instructions, in a case not to be foreseen; which I hope will not be disapproved. I have pursued every other method I could have devised, and taken every arrangement conducive to the tranquillity and safety of the island, and every thing is now quiet. To the detail I have already entered into, I have nothing further to add to your lordship, than that it appears, that while these Caribbs are permitted to occupy a large extent of country, without any mixture of white inhabitants, they will retain their fierce untractable nature, continue uncivi-

lized, lawless, disaffected, and of no use; and that the rest of the colony will be in real danger, and constant apprehensions of sudden attacks from them; and that, in case of a war with France, they will be inclined, and probably be induced, totally to destroy it.

As from the most exact calculations they cannot exceed a thousand fighting men, headed by several very intelligent as well as resolute chiefs; the assistance of another regiment properly disposed in various parts of the island, so as to oblige them to divide their strength, with directions to the commander of his Majesty's ships in these seas to co-operate with the forces under his command, together with some expence for presents to be distributed among them, and other incidental charges, would in all probability be sufficient to oblige them, with little or no bloodshed, to submit to the measures of government, and to suffer white inhabitants to live peaceably among them; the expence would be greatly overpaid by the sale of the lands, and the event is exceedingly desirable, and indeed essential to the security and welfare of this island. I have the honour to be, &c.

ULYSSES FITZMAURICE.

P.S. As your lordship may be desirous of being acquainted with the most minute circumstances of this affair, as well as every detail concerning this colony, I have intrusted this packet to Mr. Sharpe, speaker of the assembly of this island, from whom I dare say your lordship will receive a very intelligent and satisfactory account.

ST. VINCENT. A PROCLAMATION by the Hon. Ulysses Fitzmaurice, Commander in Chief in and over his Majesty's Southern Caribbée Islands of Grenada, the Grenadines, St. Vincent, Dominica, and Tobago in America, and of all other Islands and Territories which have been heretofore, or may be hereafter dependent thereupon, Chancellor, Ordinary, and Vice Admiral of the same, &c. &c.

Whereas his most excellent Majesty, George the 3rd, &c. in his paternal care and attention to his loyal subjects, in every part of his extensive dominions, hath been graciously pleased to signify his intention of taking the Caribbs, free mulattoes, and free negroes of the island of St. Vincent under his royal protection, and hath ex-

pressly commanded that they should be preserved in the perfect enjoyment of their freedom, and hath directed his commissioners for the sale and disposal of his lands in these islands, to allot to the said Caribbs, free mulattoes, and free negroes, good, proper, and sufficient lands for their support, maintenance and comfort, to be enjoyed by them and their posterity according to their own usages and customs: and whereas it appears, that notwithstanding the great care and pains which his Majesty's said commissioners have taken, to make known to the said Caribbs, free mulattoes, and free negroes, the King's gracious and humane intentions in their favour, and to explain to them the several arrangements to be taken in pursuance of the royal instructions, as well for the permanent safety, tranquillity and prosperity of the said Caribbs, free mulattoes, and free negroes, as for the farther improvement and cultivation of the said lands on the windward side of his Majesty's said island of St. Vincent; nevertheless, great discontents and jealousies have arisen in the minds of some of the said black Caribbs, from the false reports and traitorous insinuations of divers ignorant and ill-disposed persons, disaffected to his Majesty's person and government; by which means the said Caribbs have lately appeared dissatisfied, refractory, and disposed to obstruct by force the measures pursued by his Majesty's command: I have thought proper, in tenderness to the said Caribbs, free mulattoes, and free negroes, and to take away the effect of all false reports and malicious insinuations, and to remove all doubts from their minds concerning his Majesty's goodness towards them, and by and with the advice of his Majesty's council of this island, hereby to declare, it is his Majesty's royal pleasure, to preserve the said Caribbs, free mulattoes, and free negroes, in the perfect enjoyment of their freedom, and to allot to them good, proper, and sufficient lands for their support, maintenance, and comfort, to be enjoyed by them and their posterity according to their own usages and customs, and to protect them against all injustice or oppressions whatsoever: provided always, that the said Caribbs, free mulattoes, and free negroes, demean themselves peaceably and submissively to the laws of this island, and to his Majesty's commands: and at the same time to give them notice, that if they presume riotously or unlawfully to assemble in arms, with a design of opposing or ob-

structing the measures ordered by his Majesty, in any part of this island of St. Vincent, or of doing any injury to the persons or property of any of the inhabitants thereof, or of attempting any mischief whatsoever to the public or to individuals, they will incur his Majesty's highest displeasure, and forfeit all claim to his gracious protection and favour, and be exposed to the severest punishments. And they are hereby warned not to listen to or put faith in any reports or insinuations tending to diminish that just confidence and reliance upon his Majesty's goodness towards them, which it becomes them to preserve, and on which their safety depends; but to put all trust and confidence in the assurances which they have or may receive from his Majesty's commissioners for the sale and disposal of lands in these islands, who derive their instructions from the crown, concerning the said Caribbs, free mulattoes, and free negroes, and the several arrangements necessary to be made respecting them. Given at the Government-house, St. Vincent, this 10th of June, 1769.

REPORT of the Commissioners for the Sale of Lands in the Ceded Islands, to the Lords of the Treasury, dated Dominica, 16 Oct. 1771.

To the Right Hon. the Lords Commissioners of his Majesty's Treasury.

In obedience to your lordships' instructions to us, on the 25th of January last, relative to the Caribbs, we proceeded in the execution thereof, by fixing a time for the meeting of the chiefs and most sensible persons amongst them, at Morni Garou, on the borders of the country which they claim; and having given this previous notice, we met on the day appointed about forty of the black Caribbs, inhabiting the internal parts of the island, under the conduct of one named Chatoyé, a person esteemed to have the most influence amongst them, and they of Grand Sable, the most considerable district. After explaining to them very fully his Majesty's displeasure at the pretended purchases made from some among them, without his previous approbation (which seemed to them very agreeable to hear, as the Caribbs in general are averse to these purchases taking place, and would even oppose them by force); and after explaining to them very fully his Majesty's gracious intention of preserving and defending them in their liberties, and of confirming them in the

possession of certain lands, necessary and convenient for their subsistence, and also of making them presents in money for such lands as they should relinquish; we proposed their yielding to us that part of the island called Morni Garou, extending as far as Point Espagnol, at the north end of the island, a tract which we had reason to think might contain about 4,000 acres of practicable land; and as this part of the country was chiefly claimed by those Caribbs then assembled, we offered in his Majesty's name, as a recompence for it, to confirm to them the whole of the land inhabited by them, and woods adjacent, in the district of Morni, Espagnol, Rabaca, and Grand Sable, which we promised should never be taken from them; and that they might be permitted to sell it on obtaining the King's licence. We also offered a present in money of 1,000 Johanneses, or 36 shilling pieces, to be divided amongst them. We esteemed this as a very advantageous offer on the part of the Caribbs, as in the whole extent of country which we asked there is no settlement possessed by a black Caribb, the only inhabitants there, being two or three free negroes, who live on small spots formerly cleared by some of the Caribbs, and under whom they now hold their land; and in order to obviate any difficulties these persons might raise, we offered to provide some other land for them, in case it should be necessary to remove them from their settlements. Some red Caribbs had been formerly settled in this part; but having received money from those adventurers who have been trying to force themselves into those lands, have now entirely quitted, and no person made any claim on their behalf. We also thought that the offer of confirming to them the whole of the lands in the parts where they were settled, would be readily accepted, as they would thereby be quite separate from the white inhabitants; a point they have always appeared to think of great importance. On asking whether they were willing to agree to our proposal, we were greatly surprized to find them in a fixed resolution not to consent to our settling any part of the country claimed by them; which they steadily adhered to, notwithstanding our endeavours, by many arguments, to prevail on them to alter their sentiments. On our departure, we desired them to return to their habitations, and consult further with the rest of the people, and if they should alter their resolution, to acquaint us of it within

ten days, otherwise we should consider them as persisting in their refusal; since which we have heard nothing concerning them, and therefore conclude they are determined not to consent to any terms.

We were greatly astonished at this refusal, as we had good reason to think, from the declarations of many of them, particularly Chatoyé, the chief then present, that they would have consented; and can only attribute this behaviour to the influence of one amongst them, who had been resident in Martinico from his infancy, and had been servant to several French officers, who was lately returned and settled in the Caribb country. On our demanding whether they acknowledged themselves subjects of the king of Great Britain, and desiring to know whether they would take the oath of allegiance, this person spoke for them, and answered in the negative; and said they were independent of either the king of Great Britain, or of France: but at the same time they confessed a great partiality to the French, and declared they had been ordered by the governor of Martinico not to give up any land; and that he had promised to protect them.

We are now convinced by the whole tenor of their behaviour, that all treaty and negociation, though on the most just and humane terms, will be fruitless; and in case it shall be thought expedient to oblige them to submit to his Majesty's government, or to yield up any part of the land they claim, it cannot be done without a sufficient force to terrify them into obedience. And we are of opinion, that their positive refusal to agree to the terms offered by us, on behalf of the crown, or to take the oaths of allegiance, added to their avowed attachment to the French, makes it absolutely necessary, for the security of the lives and property of the inhabitants, that some steps should immediately be taken to prevent their committing outrages unpunished.

We conceive it to be impossible that so small an island can long continue divided between a civilized people and savages, who are bound by no ties of law or religion; and who, from their situation among woods, are even exempted from fear of punishment. Every day produces some great inconvenience to the civilized inhabitants, by their slaves being enticed away and harboured by these savages; and a declaration of a war with France threatens almost inevitable ruin to the

colony, as experience teaches us, that the efforts of the French would not be wanting in stirring up such an enemy.

And we think that the sale of the lands is no longer the most important object; but the honour of the crown now becomes concerned for the protection of its subjects against a race of lawless people who, when prompted by liquor or ill-designing persons, may commit any kind of violence without being subject to controul.

We do not presume to prescribe any particular measures to your lordships, but generally take the liberty of observing, that in our opinion, the most effectual means of reducing them to obedience will be to carry a road through their country, under the protection of a sufficient military force: and after allotting them proper lands, for their comfortable subsistence, to sell the remainder; which will very amply repay the expences incurred by the arrangement, and contribute to keep them in order, by mixing white inhabitants amongst them. We are, &c. WILLIAM YOUNG, JOHN HUNT, ROBERT WYNNE, WILLIAM HEWITT.

REPORT of Mr. Maitland, and other persons concerned in the Island of St. Vincent, to the Earl of Hillsborough.

My lord; your lordship having desired our opinion concerning the expediency of continuing the black Caribbs upon, or the necessity of removing them from, the island of St. Vincent, and if to be removed, where to be sent; we beg leave to observe, that the negroes called the black Caribbs are in possession of full two thirds of the cultivable and richest land in the island, which they have frequently declared their resolution not to quit one foot of; so that if they should by any temporary force be compelled to yield up any part of their claim, they will, we apprehend, re-assert their pretended rights as soon as that force is removed, or their friends the French give them any support.

So great a proportion of the island being in the hands of persons who can in no manner contribute to the support of the government of the island, either by paying their quota of the taxes, or by rendering their personal services, necessarily throws an heavy burthen upon a very few, particularly as to the personal services, which are confined to his Majesty's natural born subjects; the other white inhabitants being incapable, through their ignorance of the English language and cus-

toms, of performing those duties. We farther beg leave to observe to your lordship, that the parts of the island now in a state of cultivation, and possessed by white persons, are the most broken parts of the country; and that the weight of taxes has hitherto fallen so heavily upon the proprietors of those tracts, that the legislature of the island have not yet been able to raise a fund for erecting a jail, court-house, and other necessary public buildings, nor can (as we conceive) this business be ever accomplished in the present state of the island; the constant expences of its government being the same, and the revenue to support them being to be raised from means incapable of bearing greater exactions. We therefore think, that if the black Caribbs were even divested of attachments to any other nation, and were well affected towards us, still the colony would cease to flourish while they remained in it; and probably would not long maintain the credit and consequence it has already obtained. We hold ourselves justified in this assertion, by the stop put to the progress of the cultivation and settlement of the colony for the last two years, during which time neither the number of inhabitants nor the quantity of produce has increased; the first appearing by the muster-roll of the militia, and the other by the custom-house books.

We therefore beg leave to offer it as our opinion to your lordship, that even supposing it practicable to eradicate from the minds of the black Caribbs their present prejudices, and to reduce them to a temporary subjection, their inhabiting the island must ever prevent its farther progress towards a state of prosperity. In point of consequence, it might then hold its present standard, but can never exceed it.

But from our knowledge of the temper, disposition, and prejudices of those savages, we do not hold our property in the island of St. Vincent, or the lives of the white inhabitants, to be for a day secure from their depredations and cruelty. As the grounds of this our opinion, we beg leave to represent to your lordship, that with a tincture of as much of the Popish religion as was necessary to infuse into them the strongest prejudices against persons they term heretics, they have from their infancy conceived an attachment to the French, and their government; which has in no manner been diminished since the cession of the island, as they have con-

stantly kept up an intercourse with the French in their settlements, and have refused to hold the least communication with the King's subjects, notwithstanding the pains taken by his Majesty's commissioners, and by the legislative body of the island; and notwithstanding the separate attempts of the principal inhabitants of the island to conciliate their minds, and reconcile them to our government and people. The policy of the French not permitting them to teach these savages any thing more of religion than answered the purpose of prejudice, there subsists among them the utmost barbarity, which is not only practised by them upon each other, without any other punishment than what may arise from retaliation, but they, after encouraging our slaves to run away, have (upon their refusal to work for them, or to go off to the French islands to be sold) cruelly murdered them; and though the magistrates have at times received full informations of the facts, and of the names and places of abode of the perpetrators, yet they have not been able to procure their warrants to be executed, no constable or civil officer daring to approach the criminal, or even to enter their country on such an errand: we do not conceive it possible to bind them to any terms by ties either politic or religious. In support of this opinion we must observe to your lordship, that upon the cession of the island, when the fate of these savages seemed yet undetermined, they not only shewed the strongest tokens of humility in their declarations and behaviour, but seemed eager to embrace the terms offered by government, which were, to admit them to take the oaths of allegiance, and to be received as subjects. Accordingly great numbers of them took the oaths, and at the same time shewed by their own explanations that they perfectly understood what they were about; and expressing themselves much favoured and obliged by the footing on which they were put, readily consented to give up such lands as they could not themselves cultivate.

For a time they shewed no other instance of disaffection, but by keeping up their intercourse with the French settlements, and declining the same with the inhabitants of the island; but as soon as four companies of the regiment stationed at St. Vincent were sent to Dominica, they immediately took up arms, and, contrary to that allegiance they had just be-

fore sworn to, stopped the surveyors from proceeding in their business, took prisoners a party of forty soldiers encamped to protect the surveyors, and disavowed all allegiance to the King, or any subjection to the laws, in express and positive terms. The commissioners being forbid by their instructions to use any force against the Caribbs, the commander of the island thought himself obliged to desist from any hostilities, and enter into a treaty with the savages; by which they were promised that no roads, or further surveys, should be made for the present in the wood lands if they would suffer the troops they had surrounded to return; which was accordingly done. Elated with this success, and presuming on the moderation of government, they no longer thought it necessary to carry even the appearance of subjection, but immediately dispatched an embassy to count D'Ennery, the governor of Martinique, to inform him that they were now ready to cut off the English, and destroy all their settlement. To the humanity and honour of that officer (who dismissed the Caribb chiefs with not only the strongest expressions of horror at their proposal, but with threats) we hold ourselves indebted for the preservation of our estates and lives. Upon this repulse, the savages again affected an humble tone; but still kept up a communication with the French settlements, and constantly brought from thence, in return for the tobacco and fowls they sold, fire-arms and ammunition. About this time the legislature of the island passed a law for raising a militia. To this event we first conceived we owed the subjection to which the Caribbs seemed to be reduced; for they, about the same time, sent their priest to the commissioners, and to some of the principal inhabitants of the island, to assure them they were sensible of their error; that they had been misled; and that they were then ready to submit in any manner the commissioners required, both by giving up their lands, and acknowledging the King's sovereignty. But it was soon discovered that these appearances were but an artifice to conceal the treachery they were then meditating; for there being at that time a dispute between the courts of England and Spain, about Falkland's island, which it was thought would terminate in an open rupture, and that the French would take a part in the war; the Caribbs were well informed of these circumstances, and some of their chiefs were

constantly in waiting at Martinique for orders from the new French governor, count D'Ennery being at that time recalled: but the business being accommodated between the two courts, and sir W. Young going out soon after with instructions still more favourable to the Caribbs than any of the former, or than they seemed ever to have thought of themselves, a fair opportunity now offered for the confirmation of their promises, but they thought it no longer necessary to continue the deceit. As to the manner in which they received sir W. Young, and the other commissioners, about June last, at a congress which they seemed only to consider as an embassy from one state to another, disclaiming again the King's sovereignty over them, and avowing their resolution not to suffer any of the wood lands to be sold; their refusal to accept any of the presents offered by the commissioners, in token of amity; and the little reserve shewn by them, in declaring that they were acting under the influence of the governor of Martinique; we beg leave to refer your lordship for farther particulars to the report which your lordship may have received from the board of commissioners. The danger in which the legislature of St. Vincent considers that island to be at this instant, is fully set forth in their late Memorial, to which we also beg leave to refer your lordship.

From the circumstances we have related, and from many others which tend to our conviction, though too tedious to enumerate to your lordship, we are persuaded that no act or measure of government can preserve the tranquillity of the island of St. Vincent, and put the property and lives of the inhabitants out of the danger of the inroads of the black Caribbs, but their absolute and immediate removal from the island. As to the keeping them in order by a superior force, we must beg leave to observe to your lordship, that the number of men able to bear arms double that of the colony. French deserters from the regiments at Martinique have been seen among them, from which we conclude they are trained to the use of arms; we therefore do not think, even whilst there continues a peace between England and France, that the peace of the island can be secured with less than two regiments; and in time of war we cannot say what force will be necessary for the purpose; for the black Caribbs being in possession of a great part of the coast, the enemy

will at all times be secure of a landing, and of being conducted by them to the back of our settlements in spite of any force. St. Lucia is not above six or seven leagues to the northward of St. Vincent, and the northernmost bay of the last is in the possession of the savages.

Should the black Caribbs be once removed from the island, we conceive we then shall be able to put the yellow Caribbs, or aborigines, upon a footing as advantageous to St. Vincent as the free negroes in Jamaica are upon to that island; for the French, considering the yellow Caribbs too insignificant to do them either good or harm, have left them free from the prejudices they have instilled into the others, by which they remain fit objects for our service, as well as for our humanity and care: being inferior in number to the whites already settled in the island, we shall be under no apprehensions of danger from them.

Should it be his Majesty's gracious will to remove those savages, the black Caribbs, from the island, we think it would be as consistent with his Majesty's present intentions, as his Majesty's former humane conduct towards them, to permit them to name their own place of retreat, if they chuse to do it; so as such choice does not tend to endanger the other colonies, or cause any breach of the treaties subsisting between England and other states. For, as it is known that they have at times supposed that government intended to act in an hostile manner against them, and as their request, at the last peace, to retire to the island St. Lucia, was refused by the French Governor, it cannot, we apprehend, be doubted, but they have fixed upon some other asylum, to which it is probable they would now give the preference.

Should they not be immediately prepared to make such a choice, or should they not immediately agree among themselves upon a place to retire to, or should they name one exceptionable to government, we conceive that the removing them to the part of the world from whence their ancestors came, would as much correspond with their own inclinations, as with the clemency of his Majesty's purposes. And we think that any unoccupied tract of 10,000 acres of wood land, upon any part of the coast of Africa, having one or more rivers running through it, would afford them all the necessaries of life which they

have been accustomed to. The climate being the same as that of St. Vincent, makes clothing no more necessary to them than before; and by living on a sea coast, they would have the same opportunity of supporting themselves by fishing as they have now at St. Vincent. Or they might be placed on the island of St. Matthew, situated in lat. 2. 31. S. an island of much the same size as St. Vincent; totally uninhabited; and, as we understand, claimed by no particular power, farther than what the Portuguese may pretend to from their being the first discoverers; and which right, we presume, gives them an equal title to St. Helena, and other parts not now in their possession, though first discovered by them. We are, &c. RICHARD MAITLAND, agent, RICHARD OTTLEY, JAMES GORDON, C. P. SHARPE, WILLIAM FITZHUGH.

Copie d'une LETTRE de la part du Commandant de St. Lucie au Gouverneur et Conseillers Caraybes à l'Isle de St. Vincent, dated, au Gouvernement de St. Lucie, ce Sept. 1771.

Comperes nous, notre grand général m'apporte plainte que plusieurs Caraybes, auxquels sa bonté paternelle avoit permit de venir voir le Fort Royal, où ils se sont bien comportés, avoient fait une descente en s'en allant à St. Pierre à la Caze Navire, où ils s'étoient disputés avec un Papa; et que de là quelques Caraybes ont pris la hardiesse de tirer des flèches sur nos amis habitans de l'endroit, qui ont été obligé de les chasser à coups de fusils sans balles, ne voulant pas leur faire mal, parceque nos gens sçavent bien, comperes nous, que vous allez tout de suite connoître ceux qui ont fait faute, et que vous les punirez pour avoir manqué aux bons ordres et avis que vous leur donnâtes en partant d'être sages. Ainsi je vous prévien, comperes nous, que si vos gens s'avisent encore de faire mal, et de ne pas respecter la grande bonté et amitié de notre général lorsqu'ils seront à la Martinique, il defendera et empêchera par de gros coups de canons que les pirogues Caraybes ne mouillent au Fort Royal, ni à St. Pierre, ni dans aucun mouillage de toute la Martinique. Comperes nous, j'en ferai autant; et vous avertis que je ne baillerai point de congé, si une autre fois notre grand général n'est pas content. Adieu, &c. Chevalier DEMICOURD, commandant à St. Lucie.

LETTER from Governor Leyborne to the Earl of Hillsborough, dated Grenada, November 30, 1771.

My lord; I think it my duty to transmit to your lordship the inclosed original letter from the governor of St. Lucia, under a very extraordinary address, which was intercepted, and has been sent to me by the president commanding at St. Vincent. It is obvious by this letter that the French have encouraged, and acknowledged the Caribbs to be an independent people, and seems to confirm the suspicions that have been long entertained of their influence on their conduct. As I am afraid it will be impossible to bring those savages to a proper sense of duty to his Majesty, by acknowledging his sovereignty, and accepting of his favour and protection, I must beg leave to submit to your lordship's consideration, whether it might not be proper to take some steps to force these people to obedience, since the gentle methods that were practised by sir William Young had not the desired effect, but, on the contrary, were looked upon to have proceeded from timidity; and as the regiments on this government are expected shortly to be relieved, and we have so respectable a fleet in these seas, with the state of tranquillity that now subsists with our neighbours, if force is ever to be used, I am humbly of opinion there is no time so proper as upon the relief of the troops. I have the honour to be, &c.

WILLIAM L. LEYBORNE.

The humble ADDRESS and MEMORIAL of the Council and Assembly of the Island of St. Vincent to his Majesty, on the subject of the Caribbs in that Island.

May it please your Majesty; we your Majesty's loyal and dutiful subjects, the council and assembly of this your island of St. Vincent, on behalf of ourselves, and every other inhabitant of this infant colony, beg leave again to approach your most excellent Majesty, and to represent to you in the strongest terms the dangers with which we are surrounded, in order that your Majesty may (before it is too late) direct such vigorous measures to be taken, as we apprehend can alone secure the tranquillity of this island, or preserve the lives and properties of your faithful subjects. And whatever reluctance we have to interrupt by our complaints that happiness which we pray your Majesty

may ever enjoy, yet a regard to the trust reposed in us for the common good of this colony, will not permit us to be silent under circumstances so alarming as the present: being anxious that whenever any of those dreadful events happen, which we too well foresee, we may at least be conscious of having discharged our duty, and left nothing in our conduct, either to reproach ourselves with, or to expose us to the censure of others, who must suffer in the general ruin.

The fears and apprehensions expressed in our former address to your Majesty, with respect to the Caribbs of this island, are now become certain dangers; and the acquisition of their lands (however valuable it might prove to your Majesty's revenue) has for some time past been only a secondary and very inferior object, having yielded to a more important and natural consideration, the security of our property, and the safety of our persons. For, by the facts which are to be the subject of our present Address, we are persuaded that your Majesty will observe with concern the unhappy situation of your subjects, and will at the same time be convinced, that the only alternative left this day to the British crown, is this, either tamely to acknowledge that it has no right of sovereignty in the lands of the Caribbs, or to consider them as a nest of most dangerous and insolent rebels.

Encouraged and supported by a few individuals (who, regardless of your Majesty's rights, and of the public security, have made private contracts with these savages for the lands they occupy, through your royal clemency) the Caribbs are now taught to deny the right of the British crown to the most considerable part of the island of St. Vincent, and to affect an independent neutrality, as well as an exemption from all civil jurisdiction or subordination whatsoever; yet a few months since, when we daily expected to be involved in war, they but too plainly betrayed the strong attachment they had to that nation with whose subjects and language they have been so long conversant, and whose interest they are ready at any time to espouse, to the prejudice of those of your Majesty, and to the sacrifice of our lives and fortunes. It was not to your Majesty's governor, but to the governor at Martinique, that they resorted at that juncture; it was not your alliance and protection, but that of France, they then courted; in a word, it was with the French,

and not with us, they offered to join arms, when they expected a rupture between the two nations. The good reception and encouragement they met with from the French general were hardly justifiable even at that season; but the continuance of their intercourse in the midst of peace, and the style of the correspondence lately discovered between the governor of St. Lucia and these rebellious people, are insults offered to your Majesty's crown, and the clearest proof of the advantages the French intend to derive, in time of war, by preserving a good understanding with the Caribbs. In this situation, what safety, what tranquillity can we hope for? What have we not to fear, surrounded by lawless savages in strength and number far superior to ourselves, and now notoriously at the disposal and ready implicitly to obey the commands of a foreign enemy.

From these circumstances, your Majesty will little wonder at the repeated ill success which your commissioners have met with in their treaties with the Caribbs. Not content with refusing to relinquish the least part of those vast tracts of land which they hold in a manner useless to themselves, and prejudicial to your Majesty in every respect, they have at last, in a solemn meeting of their chiefs, given their final determination not to accept of your proffered protection, or gracious intentions towards them, and never to swear allegiance to your Majesty, or consider themselves as governed by or subject to the crown of Great Britain. And just now, when a due attention to your Majesty's rights and to the safety of this island had induced the legislature to exert their authority to compel the intruders to quit possession of the crown lands, the Caribbs, instigated no doubt by those disappointed adventurers, have again blocked up the road close to the windward-most settlement made by your Majesty's subjects. Thus are we daily exposed to the insults of savages, who, whilst they travel armed and unmolested through our country at pleasure, forbid us every intercourse or communication with their lands; and we are forced tamely to submit (within the narrow compass of a small island) to see a distinct race of lawless people pass and repass amongst us, over whom (let them commit what foul crimes or disorders they please) our civil policy has neither jurisdiction nor authority.

Permit us to observe, with all due respect, that your Majesty's subjects in this island

purchased the crown lands at no inconsiderable prices; and that they have adventured their health and fortune, and strained their utmost credit, in the prosecution of settlements already beneficial, and likely to be extremely advantageous to your Majesty's revenue. This they did under firm assurance of your royal protection; and that nothing would be wanting to put their persons and properties on as secure a footing as those of subjects in the sister islands. They hoped too, that ere long the most valuable parts of the island were to be settled in like manner by other British subjects, whose numbers would have added strength and security to the possessions of the whole; and who, by bearing a share of the public taxes and duties, would in some measure have eased the first settlers from a burthen which they are but little able to support. Instead of these prospects, we have the melancholy one of beholding our lives and properties left to the mercy of savages, bound by no ties civil or religious, disaffected to your Majesty, and ill-disposed towards your subjects; of seeing the whole extensive windward side of the island in their possession, and likely ever to remain in a state of nature, useless to your Majesty, and dangerous to ourselves; of finding ourselves without a military force sufficient to reduce the Indians to obedience, or even to defend us against them in case of an attack; and of foreseeing, that if these our intestine enemies are still suffered to remain in the country on their present footing, a declaration of war between your Majesty and the crown of France, at any future day, will be opened with the immediate destruction of all your Majesty's rights, and our possessions, and perhaps too with the massacre of all your subjects in this island of St. Vincent.

It is not for us to dictate to the wisdom of your Majesty's councils what measures to resolve on in so dangerous a crisis; yet we cannot but observe, that the suffering such a separate empire as these Indians claim, within your majesty's dominions, is not only incompatible with the safety of your subjects, but highly derogatory from the honour and dignity of the British crown; that lenity, and every humane expedient to bring them to a reasonable subjection, have now been long tried without success; that with natures incapable of gratitude or sentiment, the mild hand of benevolence evidently loses its effect; and lastly, that a continuance of the same indulgences to the Caribbs will only serve

(as it has already done) to increase their insolence, and cannot fail of being eventually the greatest cruelty to the subjects of this island. HEN. SHARPE, President. JOHN GILBERT, Speaker of the Assembly.

Extract of a LETTER from Governor Melvill to Lord Hillsborough, dated Grenada, 5th July, 1770.

I observe what your lordship says, in relation to the free negroes or black inhabitants of St. Vincent (who having partly intermixed with the native yellow Indians, are pretty commonly styled here the black Caribbs, and sometimes in England the wild negroes.)

There have been lately here about fifty of the most sensible of them, in three different boats; and they have been at much pains with me, to express their high respect for and obedience to his Majesty's government, denying any attachment to the French; and saying that this is only alleged against them by their enemies, who want to sell or buy their lands, and have made the King angry with them, who gave such good orders about them at first, and would not have taken any of their lands from them, but have left them quietly to possess them, or sell them at their own price; meaning thereby, as I understood, chiefly, if not entirely, the parcels of land which they actually occupy, and are living on. In answer, I did allow their having behaved themselves very quietly at all times while I have been in the government, but reproached them with three things. 1. That they had not obeyed, but in a very small number, a proclamation which I had issued, in conformity to his Majesty's instructions, and by the advice of the council of St. Vincent, in 1767, requiring them to come in and take the oaths, as faithful subjects to the King. 2. That they had been always in the practice of carrying on an illicit trade with the French islands, and bringing fire-arms and ammunition from them. And, lastly, that they had obstructed, and at last prevented, the completing of a road in their country, and other operations by his Majesty's commissioners, acting by his Majesty's orders.

As to the first, some only asserted their not having heard of, others their not having well understood the proclamation; but all affirmed, that it did not proceed from any attachment to the king of France, or a want of it to our King. As to the second, they did not deny it, but endeavoured to extenuate their intercourse with

the French islands, by saying it was not so great as alleged, but only that some went to sell tobacco, and other little articles, which they could not do with us, and might sometimes bring back fire-arms and ammunition, which were only for the use of killing game in the woods; persisting likewise, that the story of the skirmish between the canoes and the English sloop was an absolute falsehood, as it really appears to have been. And, as to the last of my charges, they said they did not believe it was the King himself, but those that were their enemies, and had interest to be against them, that wanted to sell or buy their lands without their own consent; and which the King would not do, if he knew they were desirous of remaining quiet and good subjects.

Whether these people have been persuaded to hold this language by some persons at St. Vincent, or induced by some ideas getting amongst them, that an extraordinary force is to be brought to overawe them, I know not; but, although I never had any instructions relating to them since the general ones (which were so indulgent and favourable), excepting an order to give the commissioners all proper support and assistance in their operations respecting them, yet I thought it a part of my general duty, as governor of St. Vincent, to dismiss them, as far as I could, with strong impressions of obedience to the King; and therefore concluded with detailing to them the great power of his Majesty, as well as his eminent justice, humanity, and goodness; and strongly recommended to them, not only as a duty, but for their own sakes, to respect and obey his authority in all cases whatever, through the commissioners or others. With such dispositions they have apparently gone back, and I hope they will equally communicate them to all the rest.

Extract of a LETTER from the Earl of Hillsborough to Governor Melvill, dated Whitehall, 21 April, 1770.

These, Sir, are all the commands I have to signify to you from his Majesty, relative to the island of Grenada; nor am I yet able to give you any particular instructions with respect to the island of St. Vincent, which, on account of its situation with respect to the black Caribbs, is so much an object of attention.

The measures which it may be proper to pursue, for inducing those savages to acknowledge his Majesty's sovereignty,

and to submit to the just and humane conditions which have been offered to them, are now under consideration; and proper instructions will be given in time, for any operation it may be thought advisable to enter upon. In the mean time, it ought to be well considered, whether it may not be necessary, for the general security of that island, that some batteries should be erected for the defence of the principal harbours and landing-places, and what cannon and stores will be wanted. And as I have no papers before me that will enable me to judge with precision of what may be requisite for this purpose, it is the King's pleasure, that if there is an engineer at Grenada that can be spared, he should be employed in making such survey of the island of St. Vincent, as will enable you to make a full report to me of what shall be judged necessary, both as to the places where it may be proper to erect batteries, and what cannon and stores it will be proper to send from hence.

LETTER from Lieutenant Governor Fitzmaurice to the Earl of Hillsborough, dated Grenada, 12th Feb. 1770.

My lord; since I have last had the honour of writing to your lordship concerning the Caribbs of St. Vincent, no event has happened there by which a judgment may be formed what their conduct is likely to prove, whenever his Majesty's instructions for the sale of the lands on the windward side of that island shall be carried into execution; at present, however, they appear to be quiet; nor has any disturbance happened in consequence of the imprisonment of one of their chiefs, who is accused of having set fire to the house of a person in whom they formerly had confidence, but who they thought had betrayed them.

In this situation, I have not thought myself at liberty to make any requisition of troops from the commander in chief of his Majesty's forces in North America. But I still apprehend it will be prudent, if not absolutely necessary, whenever measures are taken for the disposal of the lands claimed by the Caribbs, to have a greater force than is at present in these islands, in order to retain them in that awe and submission to his Majesty's pleasure concerning them, which the mildest treatment cannot alone insure from a people on whose professions there can be no dependence. I am, &c. ULYSSES FITZMAURICE.

Extract from the REPORT of the Commissioners for the Sale of Lands in the Ceded Islands, to the Lords Commissioners for Trade and Plantations, dated July 26th, 1769.

Having finished every thing necessary for this year at Grenada, we embarked for St. Vincent, where, in obedience to our instructions from the lords commissioners of his Majesty's Treasury, relating to the settlement of the windward part of that island, before we attempted any measures that might occasion the least alarm among the Caribbs, we had taken every precaution directed by their lordships, and used all possible means of making them acquainted with his Majesty's gracious disposition towards them; and for that purpose employed different persons, whom we thought to have the greatest influence over them, as emissaries, to explain the arrangements intended; and had several interviews with many of them in their own country, where we went to meet. From the temper of those with whom we conversed, and the reports we had of the sentiments of the rest, we did not conceive any difficulty would arise in the execution of their lordships' instructions; we therefore directed the surveyors to begin a road at the river Coubimaron, which is the boundary of the country claimed by the Caribbs; judging that the most useful step to set out with, as it would open a communication with the settled part of the island, and thereby render the land more valuable, give an opportunity of discovering the number and situation of the Caribbs, and at the same time greatly facilitate the survey of the country. With this road the surveyors proceeded to a place called Masserica, about eight miles distant, in a straight line from where they began. In the course of their work they met with some few Indians, who appeared discontented at the progress of the road, and heard rumours of an intended opposition to the continuation of it, which induced us to request of the governor of the island a party of soldiers to protect the surveyors in the execution of their duty. After the party was granted, the business was for some time carried on without interruption, or further shew of discontent amongst the Caribbs: in so much that it was judged inconvenient and unnecessary that the regiment should have a large detachment at so great a distance from the barracks, no more than a serjeant's guard

was continued. On the approach of the surveyors near Masserica, it was thought proper to build some new huts, and to advance the soldiers more into the country, that they might be at hand to give any assistance, if required. This occasioned fresh discontents, and it was therefore judged necessary to increase the guard to the number of forty men; who, on their march towards the huts prepared for their reception, were stopped by some of the black Indians, acquainting them, that a large party was assembled, and determined to oppose their taking possession of the huts; and that they would not suffer the English to carry on the road into the country, or to have any settlement there; and that they did not acknowledge any obedience to the King of Great Britain, or to the French king, being a free people. To these threats the soldiers paid no attention, but marched up to the post; where they discovered a party of Indians assembled, about 300 in number, well armed, who after some altercations were prevailed upon by arguments to retire to a small distance, where they remained in arms. Soon afterwards intelligence was brought to the president of the island, that the Indians had surrounded the party posted in the country, and cut off their communication of the road, so that no provisions or succours could be conveyed to them, which occasioned a considerable alarm in the island; and it was judged expedient to march out the remainder of the regiment to their relief. Sir William Young being the only commissioner on the island, thought proper, on behalf of the board, to communicate to the president our instructions on this subject; and was clearly of opinion, that nothing was to be undertaken in the present weak state of the colony, that might endanger the peace and security thereof; and that, by the instructions, no authority was given to commence hostilities; and as it appeared impracticable to carry into execution the plan for settling that part of the country, in the manner directed by their lordships (that is, with a mild and gentle hand), that he did no longer require the aid of his Majesty's troops to support the surveyors: as will appear by his letter to the president, a copy of which we have the honour herewith to transmit to your lordships; and by the other letters which are also sent, your lordships may be the better enabled to judge of the behaviour of the Caribbs on this occasion.

At a meeting of the board soon afterwards, sir William Young communicated to the commissioners what had passed, and what he had declared on their behalf to the president, which was unanimously approved of; and orders were immediately given to the surveyors to desist from any further surveys in the country.

Notwithstanding this caution, and the great pains since taken to assure the Caribbs they would be permitted to remain in perfect peace and tranquillity till the King's further pleasure should be known, and that their safety and happiness depended on their future good behaviour, they have even proceeded to acts of violence, without the least provocation; they have blocked up in many places the high road we had caused to be traced into the country; burnt the houses of a person employed by us on behalf of his Majesty, merely because he had been useful in the service; and have threatened other outrages, and particularly (as we have received intelligence) formed a design to burn his Majesty's barracks at Prince's Bay, built at a very great expence, and in the centre of a settled part of the country, at a great distance from what they inhabit or claim.

The instructions we have now from their lordships are, in our humble opinions, as proper as any that could have been devised, for the purpose of settling the windward part of the country; but experience now shews us, that it will be impossible, without imminent danger to the colony, to complete any settlements or arrangements with them, let the terms proposed be ever so tender or advantageous, without a force sufficient to restrain and awe them into obedience; for which purpose it will be highly necessary to have a considerable military force upon the island, before we again attempt to carry our instructions into execution, as we find their numbers greatly exceed what we formerly apprehended.

We have the greatest reason to think, that suffering the Caribbs to remain in their present state will be very dangerous, and may at some period prove fatal to the inhabitants of the country; as their situation, surrounded with woods, makes any access to them, for the purpose of executing justice, totally impracticable; and they will from thence be capable of committing all outrages unpunished: of harbouring the slaves of the inhabitants of the island, as well as of all the neighbouring islands; of sheltering among them vagabonds and

deserters from the French; and, in case of a rupture with France, it is probable they will join in distressing the inhabitants, and in attempting to conquer the island.

We can now assure your lordships, that the country is full as extensive as it was even represented; the soil excellent, and perfectly well adapted to the cultivation of sugar; and, if the plan of settlement is carried into execution, will be equal to any of his Majesty's islands in these seas.

REPRESENTATION of the Board of Trade to the King, dated 29th March, 1770.

May it please your Majesty; the commissioners for the sale of your Majesty's lands in the ceded islands, in the West Indies, having made to us a report of their proceedings in the last year, in the execution of their commission, which report we did not receive till this day, we think it our duty to lose no time in humbly laying before your Majesty the annexed extract of so much of the said report as relates to their transactions in the island of St. Vincent; to the difficulties they met with in carrying their instructions into execution in that island, from the opposition given to the survey thereof by the black Caribbs; and to the peril and danger to which the inhabitants of the said island, and the security of the island itself stand exposed, from the hostile and violent disposition of those savages; and as we do entirely concur in opinion with your Majesty's said commissioners, that it will be impossible, without imminent danger to the colony, to complete the settlement of that very important and valuable island, without such a considerable military force as shall be sufficient to induce the said savages to acknowledge your Majesty's title to St. Vincent, and to submit to the measures ordered by your Majesty to be pursued for the settlement of it: we therefore humbly beg leave to submit this matter to your Majesty, as requiring immediate consideration. Which is most humbly submitted. SOAME JENYNS, GEO. RICE, WM. FITZHEREERT, LISBURN.

The MEMORIAL of sundry Proprietors of Lands in St. Vincent, now in London, in behalf of themselves and the Planters of that Island.

Humbly sheweth; that nearly two thirds of the cultivable and best lands of St. Vincent remain in the possession of the black Caribbs, but a very small proportion of which has ever yet been cleared of

[VOL. XVII.]

woods, as may appear upon examination of a map in the possession of sir William Young, his Majesty's first commissioner for the sale of lands in the ceded islands.

That by the culture of such lands as are at present, and must for ever be unnecessary to that people, his Majesty's revenue will be greatly increased; and from the accession of inhabitants the island may, in some degree, be rendered defensible.

That in obedience to his Majesty's instructions to his commissioners, to sell such lands as shall remain unoccupied, after allotting to the Caribbs very sufficient quantities for their support and happiness, every measure had been pursued by the commissioners that could tend to conciliate their affections, and make them sensible of his Majesty's most gracious intentions respecting them.

That they nevertheless, from groundless fears and jealousies, assembled in arms, very much to the terror of the inhabitants: that they denied the sovereignty of the King, and obliged the surveyors to retire with precipitation from that part of the country, as hath been before represented in an Address to his Majesty from the legislature.

That they live without order, or any laws for their good government: that the barbarities exercised by them upon the native Indians, who first afforded them protection, have been such, that the few who are left alive have been compelled to seek an asylum amongst his Majesty's subjects.

That they applied to count D'Ennery, the governor of Martinique, for assistance of men and arms to drive the English from the island; and proposed to him, on their parts, to set fire to their settlements.

That they seized and sold, in the neighbouring French islands, several negro slaves belonging to the planters of St. Vincent; some of whom were very lately restored to their owners by order of the French governor.

That it is not the wish of your memorialists, from what hath been related, that the Caribbs should be otherwise dealt with than in a manner entirely becoming humanity. They pray only that his Majesty will be graciously pleased to extend his protection to themselves, that, as they desire not the destruction of others, they be secured in their own lives and properties: which they humbly conceive can never be effected whilst the Caribbs are permitted

[2 S]

306 306 306 306

to remain in their present lawless state, and possessors of so considerable a share of the island; through which, in a future war, his Majesty's subjects will at all times be exposed to the sudden incursions of an enemy.

That your memorialists believe, from their knowledge of the nature and dispositions of the Caribbs, that if a force sufficient to reduce them was speedily to be sent to the island, they would acknowledge the sovereignty and domain of his Majesty; and that every necessary arrangement might be made with facility, and perhaps without the loss of one life.

That your memorialists do not apprehend that any other force would be requisite to effect this purpose, than the addition of a regiment to the one already in the island, with a detachment from that in Antigua; and such other assistance as may be conveniently given by the commander of his Majesty's squadron stationed in those seas.

That if the above forces arrive in St. Vincent some time in the month of April, your memorialists are persuaded that the whole business may be completed before the wet season sets in.

Your memorialists further represent to your lordships, that the island of St. Vincent, from the want of proper forts and batteries, is in so defenceless a state, that it will, in time of war, be constantly exposed to the attacks of privateers; from which a number of the enemy may at any time land and destroy the estates, without a possibility of any effectual opposition being made; and that although orders should be immediately sent for the purpose, yet the difficulty of procuring artificers to undertake and build public works is so great, that much time must necessarily elapse in carrying them into execution.

That they apprehend your lordships will think the island of St. Vincent well worth the particular attention of government, when your lordships shall be pleased to consider, that in the first place, its own resources have, even in its infant state, exceeded the expence of its support; and in the next, that what your memorialists now require for the defence of the island is less than will be the amount of the duty upon sugar from it, to be imported this year only into England, although not one sixth part of the land be yet planted with canes.

That although they have purchased their lands of the crown at great prices (the

purchase money not yet satisfied); have expended large sums of money in the cultivation and settlement of their estates; and although they are obliged to pay a heavy island tax, there being no less than 6,000*l.* sterling raised in 1769, besides parochial assessments for the support of incumbents, repairs of churches, maintenance of the poor, &c. besides taxes raised in the towns for their better regulation; and rather a probability of the country tax increasing than diminishing, as no funds have yet been raised for erecting gaols, and other public buildings; yet as they are desirous to manifest their affectionate duty to his Majesty, and to shew themselves in every instance deserving of the care and protection of his government, they are satisfied (unequal as they are at present to such an additional burthen) to lay the tax of four and a half per cent. by a law of their own legislature, upon the same establishment as it is laid and levied in Barbadoes, by an act of that island, in expectation that proper arrangements be made to secure their properties from the attacks of an enemy, and their families from the insults and massacre of savages. That a sum not exceeding 20,000*l.* be granted for putting the island in a proper state of defence; and that a regiment be stationed in it.

All which matters your memorialists humbly beg leave to offer to your lordships' consideration, and to request your lordships' intercession with his Majesty on their behalf; and your memorialists shall ever pray, &c. RICHARD MAITLAND, Agent, THO. HACKSHAW, WAT. JENKINS, WM. YOUNG, RICHARD OTTLEY, C. P. SHARPE, WM. FITZHUGH.

London, 22d Jan. 1770.

DEPOSITION of JOHN QUINLAND.

St. Vincent.

Before Gilbert Gillock, esq. one of his Majesty's justices of the peace for said island, personally appeared John Quinland, master of the sloop *Ranger*, who deposeth: That on the 21st instant he departed from the Bay of Kingston in the said island, to cruise between that and St. Lucia, pursuant to orders received from the president of said island; on which station he continued till the 24th, when he steered for, and came to an anchor about five in the morning in the bay of Soufriere, at St. Lucia; that on his arrival there he sent his boat along the coast, to see if there were any Indian canoes in the out-bays;

but not finding any, the next day he got under sail, and stood along the shore of St. Lucia to the southward; and afterwards being two leagues in the channel between that island and St. Vincent, he discovered four canoes, which proved black Caribbs, and each canoe to have nineteen or more of those people on board; that he fired to bring them to, in order to examine them, agreeably to his orders; on which they immediately pulled down their sails, and took to their paddles, making towards the sloop as fast as they could; that the sloop at that time was becalmed; and perceiving them in coming up to lay hold of some musquets, and having but nine men on board, he made signs for only one of the canoes to approach at a time: that notwithstanding they persisted to come up together; on which he fired into them, which they returned, and rowed on with a seeming intention to board the vessel; that soon after this he sunk one of the canoes at a distance, and a little time after another, the crews of which took to swimming with cutlasses in their mouths, and made directly towards the sloop, which they very near reached when he sunk the other canoes as they came along side; that they still persisted to board, which he prevented by opposing them as they endeavoured to get up the sides, by destroying them with bayonets; that by this means he killed most of them; and the wind springing up, he left those that remained to shift for themselves. The deponent further adds, that their canoes were loaded with kegs, from which he saw them supply themselves with cartridges to load their arms; and that early in the engagement he had two men killed, and one wounded.

JOHN QUINLAND.

August 29, 1769.

ORDERS for the Masters of the Armed Vessels.

You are to cruise about the island in such places as from time to time shall appear to you most expedient; and in case of your meeting with any party of Caribbs, who have been guilty of any hostility in any part of the island, or to any of his Majesty's subjects, you are to do your endeavours to apprehend any such Caribbs; and in case of their resistance, or your being unable to apprehend them without force, you are to take all necessary measures for compelling them to submission; and in case of your having intelligence of any

such party of offending Caribbs, you are immediately to pursue them.

In case of your meeting, or seeing at sea, or along the coast, any party of Caribbs, whom you may have cause to suspect to be going on any ill design to any part of the island, or shall meet or see more than two pirogues of Caribbs in company, you shall apprehend the same; and in case of their resistance, you are to use necessary means to compel them. In case you shall see or meet any Caribbs at sea, carrying from the island any slaves, or any of them importing into the island any prohibited commodities, or arms, ammunition, or warlike stores, you are to apprehend them; and in case of resistance, to use necessary means to compel them.

HENRY SHARPE.

LETTER from Lieut. Gov. Fitzmaurice to the Earl of Hillsborough, dated Grenada, Sept. 24th, 1769.

My lord; upon repeated information given to the president of St. Vincent, that there was a constant communication maintained between the refractory Caribbs and the inhabitants of the French island of St. Lucia; and by whom the former were supplied with warlike ammunition, as well as other foreign merchandize prohibited to be imported into British colonies; an armed vessel, by the direction of the two branches of the legislature, and the instructions of which I inclose a copy to your lordship, were prepared by the council, and given by the president to the captain; in consequence of which he soon met in the channel, between St. Vincent and St. Lucia, four canoes, with a considerable number of armed Caribbs, who not only resisted, but attacked and endeavoured to board him. The account of the proceedings is contained in the deposition of the captain, which is here enclosed, and of which there is no reason to doubt the truth. What effect this event may produce is not easy to foresee; but I have not since heard of any disturbance.

The inhabitants of that colony are however impatient to learn his Majesty's intentions concerning these Indians, and are frequently apprehensive of sudden attacks from them; the greatest dread seems to be, that they will set fire to the buildings and plantations; the presence of the troops has probably contributed to prevent hitherto such attempts. I have the honour to be, &c. ULYSSES FITZMAURICE.

LETTER from the Earl of Hillsborough to the Lords of the Admiralty, dated Whitehall, April 16, 1772.

My lords; the King having thought fit to direct lieut. general Gage to send a force from North America to the island of St. Vincent, in order to reduce the black Caribbs of that island to a due submission to his Majesty's authority and government; and it being of material consequence to the success of this expedition, that during the operation of the King's troops all intercourse should be prevented between those people and the French king's subjects in the islands of Martinico and St. Lucia, and that the Caribbs should be convinced of the impossibility of their escaping to either of those islands: it is his Majesty's pleasure, that your lordships do give the necessary directions to the commander of his Majesty's ships upon the Leeward Island station, for the effectuating these purposes; and that he do give all the assistance in his power in the conveyance to and from the different islands of the troops which may be necessary to be sent to St. Vincent's, and, in general, in whatever else may conduce to the carrying his Majesty's intentions into execution, for the reduction of these rebellious savages.

And it is also his Majesty's pleasure, that in case the governor of Grenada shall find it necessary to remove the Caribbs from St. Vincent's, the commander of his Majesty's ships do appoint a proper convoy for the transports that are to convey them, to take care, on the one hand, to prevent or repress any attempts they may make against the masters of the transports; and on the other, that they be treated, during their passage, with all the humanity their situation will admit of, and, when set on shore, that the supplies intended for them be faithfully delivered. I am, &c. HILLSBOROUGH.

LETTER from the Earl of Hillsborough to Lord Barrington, Secretary at War, dated Whitehall, April 16, 1772.

My lord; the King having thought fit, upon the representations that have been made to his Majesty of the danger to which the island of St. Vincent is exposed from the hostile and rebellious disposition of the Caribbs, to signify his commands, that a military force should be employed to reduce them to a submission to his Majesty's government, and that such military

force should consist of such part of the troops now stationed in the ceded islands as can be spared from other necessary duties, and two regiments be sent from North America; and that they should, if required by governor Leyborne, be joined by the regiment in the Leeward islands; I have accordingly signified his Majesty's commands for that purpose to lieutenant general Gage, to governor Leyborne, to sir William Young, and to sir Ralph Payne; and I am to acquaint your lordship, that it is his Majesty's pleasure, that you do give such directions in consequence thereof as belong to your lordship's department. I am, &c.

HILLSBOROUGH.

LETTER from the Earl of Hillsborough to Governor Leyborne, dated Whitehall, April 18, 1772. [Separate and Secret.]

Sir; since my letter to you of the 4th of March last, your dispatch, No. 3, and the address of the council and assembly of St. Vincent, concerning the Caribbs, have been made the subject matter of the serious deliberations of his Majesty's confidential servants.

The representations contained in that address, and in a letter from the commissioners for the sale of lands, to the lords of the Treasury, of the danger to which the island is exposed, from the hostile disposition of the Caribbs, and the declarations they have made, that they not only will never submit themselves as subjects to his Majesty, but on the contrary, of their attachment to the crown of France, have induced the King, upon the opinion of his Majesty's servants, to resolve to take effectual measures for the reduction of them, as the only means of giving security to the settlements of his Majesty's subjects in that island.

It is hoped, that the troops now dispersed in the several islands under your government, and in Dominica, when so many of them as can be spared from other necessary duty are collected together, and joined by two battalions from North America, will be a force sufficient for this service; and I have accordingly signified his Majesty's commands to general Gage, that he do, as soon as possible, send two battalions of the troops under his command to the island of St. Vincent; and I have also signified his Majesty's pleasure to sir Ralph Payne, that in case, from any unhappy though unexpected event, you

should find it necessary to call for assistance from his government, he do immediately send you the whole, or such part of the regiment stationed in the Leeward islands as you shall require.

Besides the land forces to be employed upon this occasion, it has also been thought expedient, that the commander of his Majesty's naval force on the Leeward island station should give every assistance in his power; and I have signified his Majesty's pleasure to the lords of the Admiralty, that they do instruct him accordingly.

It is the King's pleasure, that this service should be carried on under your direction, assisted by a council to be composed of the governor of Dominica, the commanders in chief of the land and sea forces, and the lieutenant governor and council of St. Vincent, or such of them as shall be present on the island; and as the troops will arrive at a season when it is much to be wished they should stay as short a time as possible, I am to signify to you his Majesty's commands, that you do, as soon as you conveniently can, repair to the island of St. Vincent, in order to concert, in the manner above mentioned, the steps it may be proper to take for carrying his Majesty's intentions into execution, and to make such preparations as may tend to forward and facilitate your operations, when the troops are collected together.

What those steps should be depends upon a variety of circumstances, impossible to be known or decided upon here; and therefore you must, in that respect, be left to your own judgment and discretion. The King however hopes that the Caribbs, when the resolution of government to subdue them is known, and they see the force prepared for that purpose, will judge differently of their situation, and by a full submission avoid, both to themselves and to his Majesty's troops, the disagreeable consequences of using that force; and it will be your care to endeavour, by every means in your power, to bring if possible this important business to that issue, and to induce the Caribbs to submit themselves to his Majesty's government, to disavow all attachment to the French, to be content with such a portion of the island as shall be thought proper to be allotted to them, and to consent to such conditions of peace and amity as shall be judged necessary for securing their fidelity, and rendering them useful subjects instead of dangerous enemies. But if nei-

ther persuasion nor intreaty shall have the consequence to produce these effects, you will then, and in that case only, have recourse to force; avoiding however, even under that exigence, as much as possible any unnecessary severities, that may have the appearance of cruelty or oppression.

You will perceive, from what I have already said, that in whatever mode the submission of the Caribbs is obtained, whether by force or lenity, the desirable object is to continue them on the island, under conditions that may be a sufficient pledge of safety, and with an allotment of such a portion of the island as shall be judged necessary.

It is under these hopes that I am commanded to recommend to your consideration the conditions settled with the rebellious negroes in Jamaica, upon their reduction in 1738, and to send you the inclosed copy of the treaty made with them, which, allowing for difference of circumstances, may possibly furnish you with some useful hints.

After what I have said, it is with great reluctance that I look forward to the consideration of what may be fit to be done, if neither lenity nor force shall have the effect to induce such a submission of these savages as may consist with public safety. It is however an unavoidable consideration, and it is his Majesty's pleasure, in consequence of a representation of several of the principal planters in St. Vincent (a copy of which I inclose), that if necessity demand the removal of the Caribbs, you do take up such vessels as can be procured, to serve as transports for the conveyance of them to some unfrequented part of the coast of Africa, or to some desert island adjacent thereto, care being taken that they be treated upon the voyage with every degree of humanity their situation will admit of; and that when put on shore, they be supplied with provisions, and whatsoever may be judged necessary to subsist them for a reasonable time, and with such tools and implements as may enable them to provide for their future subsistence. And for the more certain execution of this service, I have signified his Majesty's pleasure to the lords of the Admiralty, that they do instruct the commander upon the Leeward island station, to appoint a proper convoy for the transports, in case the measure for the removal shall be adopted.

You will observe, Sir, that I have marked this letter as separate and secret; and I

am persuaded you will agree with me in opinion, of the propriety of avoiding, as much as possible, any discovery of our intentions, lest those infatuated savages should become desperate, and commit some fatal acts of hostility before the arrival of the troops.

The King has been pleased to attend to this danger, and has commanded me to signify his Majesty's pleasure to the governor of Dominica, to send at least three of the four companies, now stationed in that island, to the island of St. Vincent, without loss of time; and his Majesty hopes, that this additional strength will enable you, at all events, to stand upon the defensive.

My letter to general Gage, a copy of which I inclose to you, will inform you, that it is his Majesty's intention, that the two regiments to be sent from North America should return as soon as the service is completed; and I am to signify to you his Majesty's pleasure, that you do give the necessary directions accordingly. I am, &c. HILLSBOROUGH.

LETTER from the Earl of Hillsborough to Lieutenant General Gage, dated, Whitehall, April 18, 1772.

Sir; the inclosed copy of a representation from the island of St. Vincent, and of a letter to the treasury from the commissioners for the sale of lands, will inform you of the danger to which that island is exposed from the Caribbs, and the inclosed copy of my letter to governor Leyborne will inform you of the measures his Majesty has thought fit to adopt in consequence thereof; and I am to signify to you his Majesty's pleasure, that you do, as soon as may be, send to St. Vincent's two complete regiments of the troops under your command, leaving it entirely to you to name such corps as you think proper with an exception only to the royal American regiment.

As the success of this very important service will depend in a great measure upon the discretion and ability of the officer who will have from seniority the command of the whole force to be employed, you will of course, in the choice of the regiments you are to send, have attention to this circumstance. My letter to governor Leyborne is so full and explicit with regard to his Majesty's wishes and intentions respecting this service, as to make it unnecessary for me to add any thing more to this separate dispatch, than

to recommend to you, that the regiments to be sent to St. Vincent's be supplied with every thing you shall think the nature of the service may require, and may contribute to their comfort and convenience in so unhealthy a climate.

It is his Majesty's intention, that these regiments should return to North America so soon as the service is completed, and therefore you will take care that the contracts for the transports be made accordingly. I am, &c. HILLSBOROUGH.

LETTER from the Earl of Hillsborough to Governor Leyborne, dated, Whitehall, May 6, 1772.

Sir; inclosed I send you a duplicate of my separate and secret dispatch of the 18th of last month, respecting the measures to be taken with regard to the black Caribbs in St. Vincent's, and I mention them now with this distinction, which I observe is not made in my last letter, in order that you may be apprised, that it is not his Majesty's intention that the directions, contained in that letter, should be considered as applicable to the yellow Caribbs, who have, upon all occasions, behaved themselves submissively to government, and from whom I conceive the inhabitants have nothing to apprehend. I am, &c.

HILLSBOROUGH.

LETTER from Governor Leyborne to the Earl of Hillsborough, dated at St. Vincent, August 25, 1772.

My lord; I am waiting with the greatest impatience for the arrival of the troops from America, as we are now ready to begin our expedition against the Caribbs, and the weather is uncommonly fine for this season of the year. I do not find there is any preparation made by these people for their defence, and I cannot but think they will submit, though their declarations are otherwise. I mean to issue a proclamation as soon as the troops arrive, prior to the commencement of hostilities; but I have little expectation that any good will accrue from it; nothing will convince them that his Majesty has given orders for their reduction, but the marching of the troops. I am afraid some of our countrymen, that were purchasers of the lands, and the French that live among them, have possessed the Caribbs with ideas, that this measure is adopted by the King's governor, and the commissioners for the sale of lands, for their own private advantage, without any orders from his

Majesty, as this opinion seems to prevail very generally among them.

Some days ago I dispatched the government sloop round the windward part of this island, and ordered captain Gordon, chief engineer, with the chief surveyor, to embark on board of her, in order to discover, if possible, some convenient place where ships might anchor, and that troops and artillery might land. They are not yet returned from this survey; but I have this moment received a letter from captain Gordon, an extract of which I have the honour to transmit to your lordship, by which it appears there is a hostile disposition in these savages, and a resolution to oppose our landing. I gave orders by no means to molest them, and not to use force, but in their own defence. Upon captain Gordon's getting from under the fire of the Caribbs, they hoisted French colours, and gave three cheers. I have, &c.

W. L. LEYBORNE.

Extract of a LETTER from Henry Gordon, esq. Chief Engineer, to Governor Leyborne, dated on board the Sloop Portia, off Rawacka, August 21, 1772.

I think it necessary to inform your excellency, that the vessel, by the currents going to the westward, has not been able to get so high as Point Espagnol until this morning. Yesterday we went a-head in the boat, and viewed that point and the bay to the westward of it; this we found a tolerable anchoring-place, and on the point a favourable situation for any work.

This morning, being still little wind, we proceeded in the boat as high as Rawacka, which has a good sandy beach to land on. There are several Indian houses on the small plain between the bank over the beach and the high grounds, which are near half a mile distant, and this ground is well cultivated. When we got before these houses, we saw the Indians running about, armed each with a gun and cutlass. I ordered the boat to stop at the south-east end of the bay, where we were in the reach of three Indians, to ask them if we should come on shore; which they refused to allow. We then rowed on still pretty nigh the shore near some rocks and a small rising ground, where we discovered a considerable groupe of savages, who all gave a squall when we came in view, and immediately began to fire at the boat, some from the bushes, and others from behind the rocks. We pushed the boat from under their fire, without any of us being hurt.

This mark of the Indians' bad disposition will cause us to keep a little farther from the shore, and nigher the vessels, and occasion some greater delay in our proceeding.

LETTER from Lord Barrington to Governor Leyborne, dated War-Office, Sept. 8, 1772.

Sir; I have the honour to signify to you the King's pleasure, that in case the regiment which relieves the 32d regiment of foot in the island of St. Vincent under your command, should on their arrival be incomplete, and require any men to be turned over from the said regiment, you do give the necessary orders on this head, agreeably to the eightieth section of the Mutiny Bill.

Inclosed I send you one of the Acts of the present year, for your further information. I have, &c. BARRINGTON.

LETTER from Lord Barrington to Lieutenant-Colonel Dalrymple, of the 14th Regiment of Foot, dated War-Office, Sept. 29, 1772.

Sir; I have the honour to send you herewith, by the King's order, a letter of service, in consequence of which you will take rank, and be paid as major-general, during the continuance of your command against the Caribbs. Finding by a letter from general Gage, that the 14th and 31st regiments were provided with camp necessities, it has been thought expedient to give them likewise to the 6th regiment, which is going to relieve the 32d. I shall likewise send consigned to you, by the transports which carry that corps, camp necessities sufficient for two regiments, and which were originally intended immediately for North America, to be in store there against any future occasion when they might be wanted. You will make use of them, if they shall be necessary for any of the other troops under your command; but it is the King's pleasure, that after the war with the Caribbs is over, these camp necessities shall be carefully packed, and sent to general Gage. If they shall not be wanted at St. Vincent, you will then send them unopened to his excellency by the first convenient opportunity. I have, &c. BARRINGTON.

P. S. October 2d. The transports taken up for the conveyance of the 6th regiment not being able to take on board the tents and camp necessities above mentioned, it

has been judged proper to send out a vessel for this purpose, which will follow the regiment to St. Vincent's without delay.

LETTER from Lord Barrington to the Earl of Rochford, dated War-Office, Sept. 30, 1772.

My lord; two hundred tents being wanted for the use of the forces employed at St. Vincent's against the Caribbs, I have the honour to acquaint your lordship therewith, that you may be pleased to receive his Majesty's commands thereupon, and signify the same to the lieutenant-general of the ordnance, that the said tents may be delivered accordingly out of his Majesty's stores, for the use of the said forces, and the expence thereof charged to the estimate of ordnance for parliament. I have, &c. BARRINGTON.

LETTER from Mr. Chamier to the Commanding Officer of the 6th Regiment, dated War-office, October 1, 1772.

Sir; in the absence of the Secretary at War, who is gone into the country for a few days, I have the honour to signify to you his Majesty's pleasure, that the sixth regiment of foot, under your command, do embark on board the vessels provided to carry them to St. Vincent's, agreeably to their former orders, without waiting for the camp necessaries, &c. mentioned in the Secretary at War's letter of the 26th of last month, it being intended to send the camp necessaries, and some tents for the use of the forces at St. Vincent's by another conveyance. Inclosed I have the honour to send you, by this opportunity, his Majesty's order for recruiting the regiment in North America, if occasion shall require. ANT. CHAMIER.

Mr. Chamier's LETTER to John Trotter, esq., dated War-office, October 13, 1772.

Sir; two hundred complete sets of bedding being wanted for the service of the hospital at St. Vincent's, I am, in the absence of the Secretary at War, to desire you will provide the said bedding, which is immediately to be shipped and sent to that island. I am, Sir, &c.

ANT. CHAMIER.

These Papers were taken into consideration on the 10th of February, 1773.

Mr. Dowdeswell's Speech on proposing a Bill for the Relief of the Labouring

Poor in Old Age.] December 11. Mr. Dowdeswell rose and spoke as follows:

Mr. Speaker; being requested by a friend to propose to the House a Plan, which I think of great consequence to the inferior orders of the people, I must, however unequal to the task, beg your indulgence while I explain its nature and its advantages. The plan is intended for the relief of the labouring poor in their old age, when nature begins to fail and sink under the burdens which it withstood with difficulty during the vigour of youth. It is well known that many of our artisans, manufacturers and labourers, can in the prime of life, when fully employed all the week, and not pressed by the wants of a family, earn more than is necessary for their own support. If they cannot, what will become of them when burdened with a wife and six or seven children? It is equally well known, that, having no prospect of securing an independence, most of them live from hand to mouth, labouring no more than is necessary for their own support, or, if they do, consuming its fruits in idleness, drunkenness, and gaming.

Now, Sir, it has been imagined by a friend of mine, who has turned this matter in his thoughts, and who would have explained his idea to you much more fully and clearly than I can pretend to do, that, if parishes were enabled, by act of parliament, to receive small sums voluntarily offered by labouring and manufacturing parishioners, and to lay out the aggregate sum (not to be less than 500*l.* in any case) in the 3 per cents. there to accumulate at compound interest, and to yield to male contributors, after having passed their 50th year, and not before, a certain fixed sum specified in the tables to be annexed to the Act. I say, it was imagined by my friend, by me and other gentlemen whom he consulted, that consequences very beneficial to the poor, and to the public in general, would result from it. On account of the casualties to which females are liable, particularly because they may be left widows with children, it was thought reasonable that their annuities should commence at an earlier period; but the exact time must be left, as indeed the whole plan must, to the determination of the committee appointed by the House to prepare this matter for its inspection.

The first idea was to render these annuities not transferrable, that avarice might

not have it in her power to gain by the necessities and miseries of the poor; but that notion was soon abandoned upon considering that many circumstances, such as legacies, or other tickets in the wheel of fortune, might render it eligible for annuitants to sell out, in order to put their money to a better use; and that by obliging every annuitant, before he sold out, to let the parish have the refusal, every material inconvenience would be avoided.

Having thus briefly unfolded the plan, permit me to say a few words of its advantages, and the probability of its success.

In the first place, the poor will be gainers, not only because the plan will make some provision for their old age, but because the prospect of future comfort, by the means of sobriety and industry, will actually render them sober and industrious, and thus beget a habit, which will make their bodies more healthy, their lives longer, and their happiness greater.

In the second place, the public will be a gainer; because its wealth depends upon the general stock of industry, which is here increased as well by the general increase of industry, as by that waste of lives which it is calculated to prevent. It is surprising how soon a labourer in the decline of life wears out. Every gentleman who has had occasion to employ workmen, must be sensible of this truth. Now, if in their youth they treasure up in this fund the difference between what they can earn, and what they spend, they will have in their old age wherewithal to live by in a bad day, which, if they had been forced by hard necessity to work, might have suddenly put an end to their lives, and snatched them from their friends and their country.

Nor is this the only light in which this scheme will be found advantageous to the public. Consider, Sir, the vast sums raised upon the people for the support of the poor. Heavy as our other taxes are, the poor's rates in many places are heavier than any other tax. Is not, then, a proposal, that promises to lighten this burden, to be received with open arms? Here no party, no faction is concerned. On other subjects good men will sometimes differ, and differ too with warmth; on this, which if practicable will prove beneficial to all, I hope we shall all agree.

Sir, that it is practicable, and will be adopted, particularly in manufacturing towns, I have reason to conclude, not only from the general face of the plan itself, but also from

[VOL. XVII.]

conversation with the leading men of several of our manufactories, who have informed me that the earnings of the manufacturers, when they apply all the week to business, greatly exceed their consumption, and that accordingly plans somewhat similar, but upon an inferior scale, have been adopted by many clubs and societies. Is there not reason then to hope, that this idea will become general, that the spirit of industry will be diffused, and that the weight, which now presses upon housekeepers, will be rendered more easy? Will not legacies and charitable contributions sometimes increase the fund, and accelerate its well-meant operations? It is common for people, who have been successful in trade, to leave money for the relief of the poor of their parish. And where can they leave it with a greater prospect of serving mankind, than in a fund which bears compound interest? I therefore move, "That leave be given to bring in a Bill for the better support of poor persons, in certain circumstances, by enabling parishes to grant them annuities for life, upon purchase, and under certain restrictions."

Mr. Rice seconded the motion, which was agreed to.

Debate in the Commons on the Bill to encourage Foreigners to lend Money upon Estates in the West Indies.] Dec. 11. The House having resolved itself into a Committee of the whole House, to consider of the propriety of encouraging the Subjects of Foreign States to lend Money upon Estates in his Majesty's colonies in the West Indies,

Mr. Pulteney said:

Sir; the House must be sensible that, in order to render new plantations profitable to the owner, large sums of money must be first disbursed. It is equally obvious, that many proprietors of plantations may not have money of their own to expend, but must be obliged to borrow upon interest. But, if the interest be exorbitant, it not only reduces their profits to nothing, but also deters them from soliciting any loans of money. Hence the lands remain uncultivated, the prices of such articles as they produce continue high, and the public suffers in common with individuals. In many of our islands in the West Indies, the interest of money is 8 per cent. by law. Suppose the net profits upon an estate to be 12 per cent.

[2 T]

and you cannot well suppose it higher, 4 per cent. remains the net profit upon borrowed money. In fact, the high interest eats up the fruits of the estate. Is it not, then, an object well worthy of our attention, to frame a plan by which our planters may procure money at a less ruinous interest? I know that there are many of them now soliciting loans of money, and that they cannot obtain them at a reasonable rate. I know that the proposed scheme will have the most beneficial consequences; for why should it not operate as effectually in our settlements as in the Danish island of St. Croix, where this plan has raised the annual produce of sugar from 4,000 to 40,000 hogsheads? Interest in Holland and Flanders upon mortgages is from 2 to 3 per cent. and in general at $2\frac{1}{2}$. Where then is the wonder that Dutch loans have rendered St. Croix so flourishing? Do not imagine that I mean, as in that island, to let foreigners or aliens become absolute proprietors of the estate or soil. It is intended, that the *dominium* should be only vested in subjects of the crown of Great Britain. By the laws of England the mortgagee has two remedies: he may fore-close the equity of redemption, and enter upon the estate as his absolute property; or he may have it sold by a decree in Chancery. In the intended Bill there is to be inserted a clause restraining mortgagees to the latter remedy. Our ancestors have been extremely careful to preserve the property of the soil to subjects; and for that reason it has been thought prudent in the framing of the Bill to prevent any objection of that nature.

It will be perhaps urged, that the communication with foreigners, which this Bill, if passed into an Act, will produce, will afford opportunities of smuggling, and of carrying our sugars to foreign ports. But common sense will assure us, that such a thing is impossible: first, because all our sugars must be exported from our colonies in English bottoms, and because by their bill of lading they must touch at some British port, but also because sugars fetch a greater price at the English than at any foreign market.

Equally absurd is it to suppose, that foreigners will sell out of our funds, in order to lend their money upon mortgages; because the interest of mortgaged money is lower than the price of our stocks. Nor is there any reason to suppose that foreigners will send agents to London, or to the West Indies, to collect the interest of

their loans; because they will lend no money, except they have the collateral security of great houses in London for the interest, if not for the principal. Hence the merchants of London will be in no danger of losing their usual commissions. The profits of foreigners upon their loans could not afford such an expence.

Mr. Pulteney, in order to prove these facts, examined Mr. Fairholme, speaker to the assembly of Tobago, and Mr. Herries, a merchant in London. After which,

Mr. Fuller said: as this is a subject of great national utility, whereby a considerable body of people are likely to be materially affected, I think it much more advisable not to precipitate it, until we have the concurrence of a larger House.

Mr. Pulteney. I agree with the hon. gentleman, that it is a subject of great national concern, and do not wish to precipitate it. I wish to have the sense of the whole House upon it; and for that reason move it early in the session that gentlemen may enquire into it and be prepared. I have had the two witnesses examined, and do not mean to come to any conclusion at present, but to leave the committee open till after the holidays, and finish on some future day.

Debate on a Clause in the Mutiny Bill for regulating Courts Martial in America.] Dec. 15. In a Committee on the Mutiny Bill, when the clause for regulating Courts Martial in America was read,

Governor Pownall said: I must beg to call the attention of the House to a point in which the civil liberty of the constitution is so much concerned. I have affirmed in this House, I have repeated that affirmation, I do now again once more, and once for all, affirm and maintain, that part of the army, I mean that in America, is established not only without law, but contrary to law, contrary to this very law, which you are about to continue; that it is established contrary to the constitution, contrary to the constitutional and legal powers of the crown, contrary to the express declarations of law in the terms on which the monarchy was restored, contrary to all the legal and constitutional acts of the crown, contrary to the charters it has given, to the commissions it has issued. I once proved this in this House upon a state which was made on the case, when I desired and moved, that his Majesty might be addressed, to order his servants to consider this matter. The

case was admitted; the argument upon it was not contradicted; a negative was not put upon the motion; it was so far admitted, that it was said as an inducement to me, and those gentlemen who supported the motion, to withdraw it, that his Majesty had already given such orders; upon which the motion was withdrawn. The result of that enquiry was next year asked for, but could not be obtained. What that was I know not. I will never more say one word upon it; it is established by power; power is growing into a right, however slowly it may shoot upward. Although this is a proposition which intimately concerns the constitution of our government and our civil liberty, yet as it no ways can affect or interest the present state of parties amongst us, I mean not to obtrude impertinent advice, nor preach forth unheeded warnings. All that I shall propose at present is, to recommend at least that if government is satisfied that the establishment is right, and if this House has nothing to say against it, that you will give it the form of law, the semblance of a constitution. Let your military commander in chief of the colonies have, by law, a power of holding general court martials, which they have not at present, and never have had, but have exercised not by law, but under wrested interpretation of law, contrary to and in disseisance of the legal constitutional powers of the supreme civil magistrates; which those civil supreme commanders in chief have, by the law of England, by charter, by commission. If you will not alter the establishment to the law, make the law at least follow the establishment. I therefore move, that after the words "commander in chief" be inserted the words "of his Majesty's forces."

Lord *Barrington* objected to the governor's inferences, and to some of the facts they were grounded on. He said it was by no means the design of government, that different jurisdictions should clash or interfere, nor did he know of one probable, or almost possible inconvenience, that could arise from the usual method being continued; however, he had no objection, he said, to the alteration of the exceptionable words, according to the hon. gentleman's ideas.

The clause was again read, and the chairman put the question, whether the words "commander in chief of his Majesty's forces," should stand part of the motion, which was agreed to.

Debates in the Commons on the Bill to restrain the East India Company from appointing Supervisors in India.] Dec. 14. Mr. Sullivan presented the following Petition from the East India Company:

"The humble Petition of the United Company of Merchants of England trading to the East Indies;

"Sheweth; that your petitioners are informed by the votes of this honourable House, that in pursuance of a Report from the committee of secrecy appointed to enquire into the state of the East India Company, it was ordered, 'That leave be given to bring in a Bill to restrain the East India Company, for a time to be limited, from making any appointment of commissioners for superintending and regulating the Company's affairs at their presidencies in the East Indies.'

"That your petitioners, with all deference to the wisdom of this honourable House, and to the supreme authority of parliament, cannot help considering such a Bill as subversive of those rights which they hold under their charter, the original privileges of which, and the continuation thereof, have been purchased by their predecessors from the public for a valuable consideration, and repeatedly confirmed by several acts of parliament, the provisions of which your petitioners are not in any degree conscious of having violated.

"That your petitioners do with all humility conceive it to be their undoubted legal right to send out any persons whom they judge proper to enforce and execute such regulations (agreeable to the powers of their charters) as the said Company shall think necessary, for the good government of their several settlements in India, or for correcting such abuses as may have prevailed therein.

"That the present state of affairs in India appears to your petitioners to be such as requires many new orders and regulations to be speedily sent out, as well for restraining exorbitant and unnecessary expences, as for correcting other abuses; and it has been found upon examination, that savings may be made in the several settlements and presidencies of the Company to the amount of many hundred thousand pounds.

"That, under these circumstances, your petitioners have thought it necessary to choose certain commissioners who appeared to them to be qualified for so important a trust, and to grant them a com-

mission with extraordinary powers for carrying into effect such regulations, and enforcing such savings as have been, or shall be deemed necessary and expedient.

"That your petitioners beg leave to represent to this honourable House, that the calculation of expences upon which (according to the report of the secret committee) the present Bill proceeds, to restrain your petitioners in the exercise of their legal rights, appears to them to be incomplete and erroneous; and they are confident, if their affairs had been examined in a public manner agreeably to the genius of this happy constitution, whereby your petitioners (as well as the particular persons who are so deeply affected by the present Bill, should it pass into a law) might have had an opportunity of attending to their several interests, that the honourable members of the committee would have made a report very different from that which has appeared.

"That as the expences of the commission are intended to be defrayed from a part of the savings proposed to be made thereby, such expences, your petitioners do most humbly apprehend, cannot in any degree injure the creditors of the said Company, but on the contrary must tend to their advantage, more especially as your petitioners are determined to proportion them, with the most exact economy, to the present circumstances of their affairs.

"That your petitioners intreat this honourable House to consider the dangerous consequences of such a Bill to the credit of the Company, which, by preventing them from taking the necessary steps for the arrangement of their affairs, may deprive them of the means of fulfilling their engagements to the public.

"Your petitioners therefore do with all humility claim the benefit of the law of the land, and the public faith of the nation, for the free enjoyment and exercise of the rights and powers which they hold under their charter; and pray that they may be heard by themselves or their counsel against the said Bill, as tending to restrain or suspend what appears to them to be the legal operation of those rights and powers."

The Petition was ordered to lie on the table,

Dec. 16. Sir George Colebrooke moved, that the counsel not being ready with a material part of the evidence relating to the Petition from the East India Company,

that the hearing of them be put off till the 18th.

Mr. *Dowdeswell*. This can be of no prejudice to the Bill, neither will it be interrupted. So important a discussion should not be precipitated; and as not even an hour's delay can possibly happen, I should suppose no objection will be made.

Mr. *Dyson*. It was understood last Monday, that Thursday was the most proper day, and it was agreed to as such for the mutual convenience of both parties. It was not the particular pleasure of administration, but agreed upon by the friends of the Petition. I have conversed with several gentlemen who were particularly engaged for Thursday, yet they put their engagements off because they would attend the House; now they are again disappointed, and reduced to an inconvenience which might at the first have been avoided.

Mr. *Rice*. Sir, though the motion may not protract or interrupt the progress of the Bill, yet I cannot help considering the counsel deficient in their respect to this House; for they were here last Tuesday, when it was agreed for Thursday, and they then had no objections. I cannot help thinking that they trifle with us, and unless more substantial reasons are advanced than what I have yet heard, I am against the motion.

Mr. *Burke*. I rise up, Sir, to be counsel for the counsel, and to assure the honourable gentleman over the way, that the counsel, who cannot be ready to-morrow, is neither trifling in his business, nor disrespectful in his behaviour. Can it be called disrespect, Sir, when a man tells you that he is not prepared to come before you? that the most material part of evidence is not ready? Consider, Sir, that his clients are the first body of merchants in the nation, and that he is to address the first assembly in the world. As to the wide open matter, he can speak as well to it this moment as any other; it is a subject obvious to all mankind, and any one may speak to it, but I hope this House does not want declamation; if they are so far lost to all sense of their duty as to consider declamation as argument, the barrister does not; he knows his duty better; and will not display his eloquence to charm your ears, without convincing at the same time your understandings by argument. This delay is neither the result of design nor disrespect. When I was dressing myself

this morning, I received a note from the counsel acquainting me that it was impossible to be prepared by to-morrow; but it is the peculiar misfortune of the gentlemen over the way, Sir, upon the Treasury bench, to be so full of politics that they attribute every thing to some political design; and with gentlemen whose heads are so disturbed, it is no uncommon thing to be mistaken. Sir, not a moment's interruption will happen. But, says an hon. gentleman over the way, our dinners are ordered for Friday; we are engaged! Indeed, Sir! and is parliament at last reduced so low? Sir, I am astonished, and blush when I hear gentlemen mentioning their dinners, at a time when matters of the utmost importance to the commercial interests of this nation are under the consideration of parliament.

Mr. *Rice* acknowledged his error respecting counsel, and the House agreed to hear counsel on the 18th.

Dec. 17. Mr. Alderman Harley moved, that he might have leave to bring up a Report from the Secret Committee, which was agreed to, and read by the Clerk, of which the following are the grand outlines: That the leading objects for appointing the Secret Committee were, to enquire into the present state of the East India Company, as well in England as in their presidencies abroad, in respect of their debts, credits, and effects, and to report the same to this House with all convenient dispatch; that, conformably to those instructions, they thought it necessary to divide the Report into two periods; the first respecting the immediate state of the Company, commencing the day their enquiry began, and including the current half year, that is, from the 1st of December 1772 to the 2nd of March 1773; the other, the General State of the Company's affairs after that day in England and elsewhere. The credits in the first account amounted to near 1,700,000*l.* and the debts to 2,200,300*l.* which left a balance of above 500,000*l.* In the second account the credits were 5,600,000*l.* and the debts 7,000,000*l.* and odd hundred thousand pounds, which produced another balance against the Company of about 1,500,000*l.* that the whole of the Company's effects in India and elsewhere, including those floating on the sea, their goods in their warehouses abroad, their bullion, military stores, plate, cattle, slaves, lands, &c. amounted to 6,000,000*l.* and their debts

to 2,000,000*l.* that they found another account on the Company's books, which they could not pretend to decide on, but reported it to the House, as they found it stated; that is, a sum of 3,000,000*l.* mostly laid out since 1757 on fortifications, and that chiefly in Bengal. That the amount of the territorial revenue was near 3,000,000*l.* and that the next step the Committee intended to take, was to enquire into the present state and management of it.

Mr. *Jenkinson* moved, that the Report do lie on the table, to be perused by the members; on which

Mr. *Dempster* remarked, that it was very unfortunate for the directors, or, more properly speaking, for the proprietary, that the committee had not been an open one; such as were members would then have had it in their power to explain many things, and be the means of enforcing others; that, in particular, they would never have consented to have credited the Company in a particular article for only 28,000*l.* due to them from the crown, when it was notorious that their demand was above 160,000*l.*; and as a proof of it, they had refused to receive the former sum, though it had lain in the Treasury for a considerable time; that he could point out many other defects in the Report, but should only observe upon one, which was, that vast sum expended upon the fortifications in Bengal, and other parts of India besides; that no sort of notice was taken of the territorial revenue in the account now before us.

Mr. *Jenkinson* replied, that from the state of the Company's affairs it was evident, that the greatest dispatch was necessary, which could never be so effectually done as by a secret committee: that as to the objection against the credit of 28,000*l.* there were two answers, either of them singly sufficient to overthrow it; namely, that it was the specific sum granted and appropriated by parliament for that purpose; and that by a note from the Treasury it appears, that colonel Monson, when examined by that board, was of opinion, that 28,000*l.* was a full compensation to the Company for their demand. As to the complaint against the Committee, for that part of the Report relative to the fortifications, they did not, nor could they well pretend to decide on it, but reported the matter faithfully as it appeared to them, and therefore left it to the consideration of the House. He concluded by

saying, it was impossible that any thing could be determined on concerning the territorial revenue till it was first enquired into; and that he believed, when the hon. gentleman recollected the concluding part of the present Report, he would be convinced he had no occasion to offer any thing on that head.

Mr. *Hussey* said, that the Report in general was very satisfactorily and clearly stated; but that he was surprised to hear nothing mentioned relative to the tyranny and rapacity of the Company's servants in India.

Mr. *Harley* replied, that those were by no means the objects of the present enquiry: that the immediate distresses of the Company, and a speedy relief, were what the Committee had principally in view; and that, in the course of their enquiry, if any instance of malversation or delinquency should appear, they would take care to report it with fidelity, and without any degree of partiality to any man. The motion was then read a second time, and agreed to.

The Report was ordered to lie upon the table.

Dec. 18. The Bill for preventing the East India Company from sending out Supervisors to India for six calendar months being read, the Company's counsel, Messrs. Impey and Adair, were called to the bar, and with great clearness and strength of argument, contended that the principle and object of the Bill were unconstitutional; that it did not state any delinquency in the Company, though it invaded their chartered rights, the right of managing their own affairs within the bounds of law and their charter; that it was the happiness of this country to be governed by fixed and known laws, not by *ex post facto* acts passed upon the spur of a particular occasion; that, as long as the House of Commons acted upon these principles, and protected instead of infringing public and private rights and franchises, they would be the greatest and most respectable assembly in the world, and the envy of all other nations; that, were the Company accused of delinquency, and upon that ground threatened with a deprivation of its rights, yet some compensation ought to be made; that this was a maxim held sacred in former parliaments; that the wisdom of our ancestors was not lightly nor wantonly to be set at nought; that the prevention of expence to

the Company was the foundation of the Report made by the secret committee; that, if the secret committee had been an open one, according to the genius of our constitution, and had acted with a degree of slowness and deliberation requisite in so weighty a matter, further lights might have been thrown upon the subject, and they must have made a different report; that the object of the commission was the same as that of the Bill, the prevention of expence, and that it was very improbable that the secret committee should have in a few days discovered the proper mode of accomplishing that purpose, better than the directors and proprietors, who had so often discussed the matter; that it could not be supposed that they had œconomy more at heart than the proprietary; that therefore it was reasonable to conclude, that the proprietary's eyes had pierced a little deeper into the subject than those of the secret committee; that no man could deny that the Bill was not an extraordinary stretch of parliamentary authority, excusable only by the most urgent necessity; that in this case no such necessity pressed; that the Company was not alleged to be in a state either of lunacy or bankruptcy; that, if they had any reason to apprehend bankruptcy, it was from this unprecedented interposition of parliament, which by such a wanton exertion of power, gave a violent shock not only to the credit of the East India Company, but to the credit of the nation in general; that the Bank, the South Sea, and other companies, had no other security for the enjoyment of their corporate rights but the faith of parliament; that by acts of this nature, that faith would be shaken, and we should gradually degenerate into an arbitrary and capricious government, which held nothing sacred, neither public faith nor private property; that it mattered little what was the name of this wanton violator of the fundamental maxims of the constitution; that the thing was the same whether done by a Grand Monarque or by a parliament; that it was not insinuated that the commission was illegal; if such an idea had been entertained, it would have been undoubtedly stated by the secret committee, as an additional ground of their Report; that the commission was similar to former commissions which had met with no opposition from government; that on the contrary they had been declared legal by many gentlemen learned in the law, as well as by the law officers of

the crown for the time being; that, though the present Attorney and Solicitor General had given their opinion against the legality of the present commission, they were but men, and men counterbalanced by their predecessors in office, and the voice of many able counsellors; that the legality of the commission had been frequently agitated in the court of directors and the court of proprietors; that its legality had been there uniformly acknowledged; that, as its legality was not contested in the Bill, they would enter no farther now into the subject, but leave it on its present basis; that, as to the expence of the commission, it had never yet been exactly ascertained, except by the secret committee, who had taken the affair for granted, and calculated it upon too large a scale, in consequence of the information of the Company's chairman and deputy chairman, respectable men indeed, but men who without the concurrence of a general court can in this affair do nothing; that the intended supervisors had declared themselves ready to accept of what was thought adequate to the proposed services when the instructions were made out; that the expence was to be payed out of the savings made by the commission, and would therefore be no drain upon the treasury of the Company; that it was found that these savings would amount to several hundred thousand pounds; that many abuses prevailed in India; that the governor and councils were best acquainted with these abuses; that therefore for the sake of information it was provided that the governor, the second in council, and the commander in chief at each respective presidency, should have a voice in their consultations, the casting vote remaining with the first of the three supervisors, required by the commission in every consultation; that by this regulation all necessary intelligence may be acquired, and yet the governor and council, who seem to be the chief delinquents, will not be able to screen themselves from disgrace and punishment; that, on the contrary, the commission provides for their being displaced, if they are found so guilty as to be judged unworthy of farther confidence; that the abuses in India were various; that in Bengal they exceeded those in Bombay, and those in Bombay those at Fort St. George; that at Fort St. George there were five officers to a company, and at Calcutta fifteen; that in Bengal the military establishment consists of 3,890 Eu-

ropeans, 26,132 sepoys; in all above 32,000, the annual expence being above one million; that at Fort St. George the military establishment consists of 4,410 Europeans, and 18,339 sepoys; in all near 23,000, the annual expence being nearly 300,000*l.*; that by calculation it would hence be found, that the army in Bengal, put upon the footing of that at Fort St. George, ought to cost very little more than 400,000*l.* and that, if this reform could by any address be effected, the saving to the Company would exceed half a million; that in all probability this scheme was not impracticable, as the army at Fort St. George was more expensive than it ought to be; that at Bombay the difference was not so considerable, but still it deserved attention; that the Europeans at that settlement amounted to 1,883, and the sepoys to 6,301, in all above 8,000 men, of whom the yearly expence was nearly 146,000*l.*; whereas, upon the scale of Fort St. George it should have but little exceeded 100,000*l.*; that the same gradation of extravagance was observable in the civil establishment—that in Bengal 171 civil servants annually cost the Company 265,000*l.* and in 1770, 136 civil servants cost above 300,000*l.*; that at Fort St. George 114 civil servants cost only 50,000*l.*; but that at Bombay 96 civil servants cost 124,000*l.*; that these were proper objects of regulation, and that it was evident great savings, savings infinitely superior to the appointments of the supervisors, might here be made; that, however, there were other points upon which œconomy might operate to great advantage; that these were the fortifications and barracks; that in 1766 the chief engineer, captain Martin, delivered it as his opinion that to enlarge the fortifications of Calcutta, conformably to the plan of the intended outworks, would add nothing to the strength of the place without a proportionable garrison, which could not be maintained; that yet above 84,000*l.* had been expended upon them that year, and the charges had been every year since gradually increasing, till they now exceed a million sterling, the whole expence of forts since 1765, the time when the Select Committee commenced its operations, amounting to more than 1,200,000*l.*; that the governor and council in bargaining for bricks to complete the harbour of Calcutta, had received an offer which would have saved the Company one-fourth of the expence, and that it was refused;

that they had informed the Company they were building for the soldiers barracks, which would not cost above three lacks of rupees; that by the last advices they had expended 24 lacks, or 300,000*l.*, and yet the barracks were not complete; it was necessary to build a wall round them in order to prevent the soldiers from deserting; that the Select Committee, in 1765, had begun to levy, without any authority, an arbitrary tax called Matoot, under colour of repairing bridges, ways, &c. and had diverted it from the public channel to their own private use; that it was occasionally increased, if the harvest was plentiful, so as to equal in some districts, or at least in one, the whole of the annual rent of the farmers; that this enormity was for five years concealed from the direction; that, when it at last appeared in the consultations of the council through the obstinacy and dissent of a refractory member, they give this curious reason for the fraud, "That it would appear unsufferable to the direction, however necessary it might be in the eyes of the natives," those miserable wretches, out of whose bowels it was iniquitously and feloniously wrung: that, though it was pretended that this was an ancient tax, it could not but be considered as new and arbitrary, when the extent to which it was carried is considered; that Mr. Sykes, one of the Select Committee, and resident at the Durbar, touched of this Matoot 24,000 rupees for his table, 18,000 for his dresses, and 18,000 more for other expences, making in all 60,000 rupees; that this tax, when mentioned in the Company's books, was wrote off 'To Profit and Loss,' that is a total loss; that the Select Committee in 1765 had against the express directions of the Company, erected themselves into an exclusive company for monopolizing betle-nut, salt and tobacco; that the customs due to the Company upon these articles amounted to 120,000*l.* a year; that this honest committee had managed affairs so artfully, as to cover by dustucs or exemptions from duties all these articles, and thus cheated the Company to the amount of near half a million, which the salt society now owed *bona fide* to the treasury of Bengal, and which they ought to be forced to pay; that for the last three years the net receipts at Bengal had exceeded the disbursements by 1,592,644*l.* which had not been accounted for by the governor and council, and which should now be in the treasury; that the governor and

council were very tardy, even when pressed by the directors, in sending over books and other vouchers; that lately they had, as a proof of the good accounts they kept, resolved in their consultations that the Company's treasury could afford no more than 45 lacks for the Company's investment, and yet it had in the event afforded 90 lacks, besides a large balance which should remain in their hands; that, when the French sent forces to the Mauritius, the directors had empowered them, in order to erect a fund that might defeat any invasion of European enemies, to draw bills upon the Company to the amount of 300,000*l.* at a certain rate of interest, at the expiration of a year; that, in spite of these positive orders, they had drawn bills bearing a higher interest than allowed, 90 days after sight, payable at one, two, and three years, amounting in all to about 1,100,000*l.*, that is, to 800,000*l.* more than they were authorized to do; that it appeared that the salt society, or select committee, had lent the Company its own money, some of which bore interest at two months, and that the interest was then converted into principal, and the Company thus shamefully and feloniously robbed, and treated as his master was by the usurious steward, Peter Pounce, in the romance; that the scheme of the indemnity on tea had cost the Company between payments to government and losses on shipping, and other articles, not much less than a million sterling; that, were it not for these two circumstances, the class-bills from Bengal, and the scheme of indemnity on tea, the Company, notwithstanding its other misfortunes, would not have been reduced to its present distress; that there was by the last advices from Bengal no greater balance in the Treasury than 700,000*l.*; that upon the present plan this would last only about four months, a time too short to carry them to the frontiers to face an enemy; that, before 1765, that is, till the Select Committee of lord Clive had the direction of affairs, the civil and military expences of the Company at Bengal had never exceeded 700,000*l.*; that in 1766 they amounted to 900,000*l.*, and so on gradually till at last they have swelled up in 1771 to the enormous sum of 1,800,000*l.* sterling; that this detail of extravagance, oppression, and fraud, clearly demonstrated that a commission of able and upright men vested with just power and authority might save the Company sums, against which the expence of the

supervisors would weigh but light in the scale; that the Company claimed the right of taking this step upon the faith of the nation and by the law of the land; that a body of men, who had no merit to claim, might justly insist upon this free exercise of legal rights; that the Company claimed it upon both accounts, upon account of justice and of services to the nation; that the Company paid to government in customs and excise about a million sterling; that 400,000*l.* more were paid by agreement in lieu of any claims of government upon the territorial revenue, that, since the agreement with government, the Company had not divided a single shilling among themselves but what the profits upon their trade produced; that in fact the net revenue of Bengal, at least what came into the hands of the Company, went all into the British treasury, and that for these and various other reasons, which might be urged, the Bill ought to be thrown out.

After the exposition of these facts the witnesses were called to the bar, and proved every thing alleged by the counsel. The witnesses were, Mr. Wilkes, keeper of the Company's records, Mr. Hoole, auditor of Indian accounts, and Mr. Tookey, who takes care of their custom-house accounts. As soon as they had retired,

Mr. Dempster said:

Mr. Speaker; I shall not attempt to enforce what has been so ably urged by the counsel in support of the legality of the commission and against the unconstitutional spirit and tendency of the Bill. These points they have, I think, fixed upon a basis not to be shaken, and I am not disposed unnecessarily to trespass upon your patience. Suffer me only to observe, that the principle of the Bill is such as would necessarily render me an enemy to it, were no other evil to ensue. But, when I consider that it not only puts a sudden and arbitrary stop to the exercise of legal, chartered rights, but also prevents the Company for such a series of months from redressing those grievances and making those savings which are absolutely required to reinstate them in their former credit and opulence, I cannot but give it my strongest negative. Recollect that train of abuses and enormities which the counsel have explained and proved at your bar, and confess that an immediate reformation is wanted. Recollect also, that

[VOL. XVII.]

you are not the only branch of the legislature; and that, if this Bill passes into a law, you put it into the power of the Lords, or of the King, to prevent you from making any salutary regulations, or at least from carrying them into execution for the space of six months, or more, if they should be swayed by caprice, or other unknown motives. However upright your intentions may be, and I hope they are very upright, you cannot answer for others. This parliament may be prorogued, before you have time to complete the intended inquiry, and to form your great plan for the salvation of Bengal. What will in that case become of the Company's interest, and its credit? What will become of those of the nation? They will both sink together, and be involved in one common ruin. Reflect, therefore, before it is too late, on what you are going to do; and, as you tender the existence of the Company and the prosperity of Britain, throw out this pernicious Bill with indignation.

Mr. Crawford said, that the distress of sixteen millions of people called loudly for redress; that the natives of Bengal had been unmercifully plundered and oppressed; that avarice and tyranny had there appeared in their most odious forms; that the directors in conjunction with the proprietors had attempted a reformation, but had failed; that they had sent out a select committee, an institution equivalent to a supervision; that instead of reformation, that committee had rendered bad worse; that the pleadings of the counsel at the bar had turned principally upon the misconduct of that committee; that men would still be men; that unlimited power would for ever debauch the best of men; that the supervisors, by the commission now made out for them, were to be invested with as full and uncontrouled powers as the select committee; that, as the latter had abused their trust, so in all human probability would the former; that therefore the scheme of reformation adopted by the direction and the proprietary would be a new grievance instead of redress; that in consequence some other plan must be adopted; that parliament alone had this in its power; that parliament had tried a select and open committee; that it had proved so slow in its operations, as to afford no prospect of relief, and to be in fact a mockery of the Company; that accordingly the secret committee was set on foot; that it was now sitting, and employ-

[2 U]

ing the utmost diligence and dispatch, in investigating the state of the Company, and preparing the way for a remedy; that, while matters thus stood in suspense, and under the consideration of parliament, it would be absurd to allow the Company to proceed upon their own bottom, and to snatch the business out of their hands; either there was or there was not occasion for the interposition of parliament; if there was, how could the Company pretend to act independent of them, after it had applied for relief to the minister; if there was not, why did it apply?

Mr. *Richard Whitworth* said, that he expected to have heard the counsel read those parts of the Company's charter, and of the acts of parliament which proved the present Bill illegal and unconstitutional: that no such clauses had been produced; that he believed none such existed; that for his part he was convinced the commission was illegal, as it was inexpedient; that their charter empowered the Company to appoint a governor and council, but no supervisors; that he took the Company to be in a state of actual bankruptcy; that, though they had goods in their warehouses, nobody would buy them; that in consequence they were in want of current cash, that is, they had stopt payment; that in their situation an individual would be deemed a bankrupt; that they had out-warred as well as out-traded themselves; that as to their live goods and dead goods (meaning quick and dead stock) he agreed with the secret committee in thinking them too highly valued by the Company, &c. Here the continued laughter of the House obliged this well-meaning but indistinct little speaker to resume his seat much against his will.

Governor *Johnstone* :

Mr. Speaker; though I could not approve of the commission of supervision, I must say I can still less approve of this Bill. The commission I thought dangerous to the Company's interest in Bengal: the Bill I think still more dangerous to the constitution, an object of much greater importance. If a minister is thus permitted to remove the great barriers which the wisdom of our ancestors has established for the safeguard of private property and for the security of the constitution itself, adieu to all order; adieu to parliamentary independence; adieu to liberty. It is not that I deny the power of parliament to interfere upon extraordi-

nary occasions, and to suspend the ordinary course of the law. Such a power must certainly be lodged in every supreme legislative body; but the necessity, which calls it forth into act, must be very cogent indeed to render it justifiable. If parliament for slight and trivial reasons calls before it the business of individuals, and determines it according to its own caprice, in what does it differ from the French king, who wantonly removes out of inferior courts private causes, and decides them by his own fiat? It differs only in name. Has not this been the case in the present instance? Has not the minister arbitrarily and capriciously brought this matter into parliament, suspending the legal course of business in the court of proprietors? This measure would have been less unconstitutional, had it taken its rise from an anxiety for the public weal, as every act of a minister in parliament ought; had it not originated in selfishness and revenge. The proprietors of East India stock had it from the best authority, from their chairman and deputy chairman, that the plan of supervision was not disagreeable to the minister. But when was it not disagreeable? While it was hoped that his friends would be entrusted with the execution of the project. As long as government imagined that its own creatures would share the plunder of Bengal, so long did it encourage the plan which it now opposes. When the minister found that the proprietary had no confidence in his humble servants and durst not trust their concerns in the rapacious hands of hungry courtiers, as they were then called, he immediately declared war. This Bill is the beginning of hostilities, but I fear it will not be the end. *Principiis obsta*. His finger is now upon the Company. If you suffer his whole hand to grasp them, they will be crushed.

Lord *John Cavendish* :

Mr. Speaker; this parliament has been so often accustomed to exert the plenitude of its power in direct opposition to the known and avowed sense of the people, and to make experiments upon the constitution, that I am not surprised this House does not revolt against the present Bill, which is in principle unconstitutional, and in practice dangerous. When extraordinary remedies become the ordinary engines of government, you may rest assured that you have a weak ministry. Men of superior, and indeed of common

abilities, foresee and prevent great evils; and, if in the variety of human events such evils should still arise, they know how to remove them without offering violence to the general system, to those sacred institutions which are to human society what gravitation is to the constitution of the universe.

Here the minister calls upon the wisdom of parliament to settle a matter that was too weighty for his hands. And what is the plan which he recommends? An evident, an avowed infringement of the constitution. I wish that, before he had taken this step, he had considered that he was invading a right which parliament had not granted, but sold; a right for the security of which the faith of the nation was pledged, and which could not be taken away without an act of forfeiture in the Company, nor in that case without due compensation.

Before a minister comes to hang the terrors of parliament over the subject, he ought to try every possible legal remedy, every remedy that can be applied without departing from the grand outlines of the constitution. Has any experiment of this nature been made? Has any compromise with the Company been attempted? Has any effort been made to prevail upon the Company to drop the idea of supervision, that parliament might not be forced to adopt this strong measure? No lenient, no conciliating plan, that might unite utility and legality, was ever proposed on the side of administration. But where is the wonder, when this House is so humble and submissive? When any difficulty now presses our state-physician, he applies directly to this House, in whose omnipotence and prompt obedience he finds a plaister for every sore, a panacea or universal specific for all disorders. Sir, the complaisance and obsequiousness of parliament has reduced us to a government of expedients and temporary regulation. There is no general system, no uniform plan; a consequence that always flows from the misfortune of having the acts of the national assemblies reduced to the caprice of one man, who, like a true quack, that always employs one strong mercurial medicine, constantly recurs to the transcendent power of parliament. The House is sensible that I am quite orderly, because the character, which I have here drawn, is not applicable to any member of this House.

Mr. Vane said, that the Bill in agitation

was illegal, inexpedient and alarming; that, however, it was the consequence of that tardiness with which the ministry proceeded last session to the consideration of East India affairs; that he took shame to himself for speaking so warmly of East India concerns, when he moved the Address to the King's Speech; that he would not have taken this step, had he suspected that the ministry would have suffered the whole session almost to expire without making a single motion upon this subject, and at last left it to an unconnected independent member to move and forward an enquiry; that this slowness and supineness in administration last year had this year given birth to the secret committee, whose motion was proportionably too hasty and rapid; that the select committee would be found to proceed constitutionally to the radical cure of every disorder in the constitution and government of the Company; that the secret committee was in its nature unconstitutional, that its conduct was already complained of; that no such complaint had been brought against the select committee; that the liberty granted to every person, who thought himself injured, or who was accused, to attend, secured it from injustice and every shadow of complaint; that he could wish some other method of restraining the Company had been thought of by the ministry, and that the proper way would have been to induce the Company to restrain them, which he thought would have been no hard task.

Mr. Sutton said the Company had, after knowing that the restraining bill was in agitation, reconsidered the scheme of supervision, and yet confirmed their former resolution and adhered to their purpose of sending out these men; that therefore it was evident they meant still to take this step in spite of the assurances of the chairman and deputy chairman, who had declared no supervisors should be sent out during the recess of parliament; that therefore he would vote for the bill, as the proprietors had refused to rescind their own resolution.

Lord George Germain :

Mr. Speaker; I do not rise to give any trouble to the House, but merely to deliver my sentiments, and prove that I have acted consistently throughout this affair. I own, that I disliked the mode of this Bill. The way, in which it was introduced I objected to, and I sincerely wish it had

come to us through any other channel than a secret committee. When, Sir, two honourable gentlemen in the direction of India affairs stood up, and pledged themselves that no supervision should go out, I then wished that parliament would not interfere, unless they attempted to proceed: but since I have heard their counsel at the bar, the very arguments which they advance against the Bill are the greatest proof of the urgent necessity for it; and, Sir, had those gentlemen been engaged to defend the Bill, they could not have started arguments more effectually for that purpose than those which we have heard against it. The evils in India are of that magnitude, that the parliament only can reform them; for, Sir, let us see who were appointed to reform those grievances. Six supervisors are appointed here; but the governor and council are also included. The very men who are immediately accused of delinquency are the very men to redress grievances! What an insult to the very natives, and a mockery of justice! The men, by whose rapacity and cruelty the India Company are nearly reduced to ruin, are to be the reformers of manners! Nay, Sir, has not a member in his place [Mr. Sykes] been accused of extorting from the miserable natives of India, by an arbitrary and oppressive tax, a great part of his wealth; and, what is yet more criminal, levying those taxes as often as the industrious natives were likely to have a good crop, and oftentimes insisting on their having extraordinary crops as a pretext for pillaging them? Has he not been resolutely told by an evidence (whom he questioned himself), that from the illegal tax called *matoot* was a great part taken by himself for his dress and his table? Has he been able to deny it? No. The evidence, with a share of intrepidity and honesty which does him honour, told him to his face, accused him, Sir, undauntedly, at the bar of this House, of rapacity and tyranny. And are such men, who have rioted with an unrelenting cruelty in the distresses of their fellow-creatures, proper persons to restore the current of justice, and regulate the mischiefs which their iniquity has produced? When facts, like these, come forth, is it not time to awake from our lethargy, and to exert the transcendent power of parliament? Sir, the governor and council are the men accused of all, or, at least, of the capital malversations set forth by the counsel, and proved by the witnesses. Whom does the

commission of supervision appoint for the redress of the grievances of which they are the authors? that very governor and council. What a mockery of reformation? Sir, the Company, according to the proof now upon your table, has been set at nought by its servants in India. The orders of the direction, however positive, have been either evaded or despised. What reason have we to think that the same spirit of disobedience will not upon this occasion prevail? In my opinion, the Company at present has not power to enforce its own resolutions. Its servants know this impotence; and to it are owing all the misfortunes of the Company. If the directors have power to effect a reformation, why have they not before this time exerted it? These enormities they certainly knew long ago. But what have they done? Parliament alone can give relief; and it is full time that we should seriously and speedily engage in this work, which no other power can achieve. If we still continue tardy and irresolute, Bengal may in the mean time be lost, or at least all its advantages. The carcass, as it is called by the Company's servants, may remain, but the life and spirit will be gone; and with them will go the nation's right hand.

Mr. Dempster :

Sir; I think that some expressions, which have fallen from the noble lord who spoke last affect not only a body of men with whom I am closely connected, but myself both as a member of this House, and as a director of the East India Company; and, as they imply accusation, I hope the House will indulge me with this opportunity of reply.

Sir, the noble lord asks "what have the directors done? Have they attempted to punish the authors of the enormities just now proved at your bar? Were they not long ago acquainted with these grievances; and ought they not to have made an example of the criminals?" In answer to all these questions I must tell the House that the directors have found the utmost difficulty in procuring the books and papers necessary to authenticate any charges of delinquency in the governor and council, the chief criminals. Need I produce a better proof of this circumstance than what the witnesses have proved with respect to the *matoot*? Five years elapsed before it was known in England. As far as I know or am capable of judging, the di-

rection have, ever since I had the honour to be an unworthy member, acted with propriety. Orders as positive and binding as the authority lodged in the directors will admit, have been sent to India to make various regulations and savings. In short nothing that could be done by men in Leadenhall for the salvation of the Company has been omitted. The directors, sensible that the efforts of gentlemen on the spot were necessary, meant to send out supervisors. Nor has the punishment of delinquents abroad alone engaged their attention. Those who have returned home laden with wealth and iniquity have likewise attracted their notice. The salt society, whose peculation to the amount of near half a million has been explained by the counsel and proved by the witnesses, have been given to understand that, if they do not speedily pay this sum, they shall be prosecuted at law. Why then are the directors held forth as culprits? Why is the Company now treated as criminal? Is it that they have embezzled and squandered away the territorial revenue? Sir, the Company has not divided more than what the profits of their encreased trade has yielded; and the territorial revenue has not enriched it a single sixpence. That fund has been exhausted by government, by the Company's servants, and by a noble lord, who, not to say a word of his friends, has reaped more of that harvest than the Company.

Having thus in some measure justified the Company and the direction, let me ask in my turn what the noble lord has done in his own department? Is he not a member of the select committee, and is it not incumbent upon him as a member, to mention any enormous act of tyranny, peculation or cruelty that appears in the course of the enquiries of that committee? I do not pretend to be very well informed. Yet, Sir, I did attend that committee two or three days out of mere curiosity, and I likewise perused some parts of the Report made by them and left on your table. And from what I read and what I have been told I have reason to think that the enquiry furnishes proper grounds for an impeachment. Why, then, did not the noble lord step forth, and adopt a measure which was beyond the reach of the direction? Accusation, Sir, is a serious matter, especially when exalted criminals sheltered behind the throne and protected by the plunder of whole kingdoms are to be attacked, when delinquents fly into the

arms of majesty for refuge, and find a gracious reception, it is not for the East India Company to drag them from the lion's den. They may be torn to pieces in the attempt. No power inferior to that of a committee of this House is equal to the task. In the present state of parliament there is too much reason to fear that our committees have not virtue enough left to attempt this strong, but necessary measure. The secret committee was evidently calculated to screen great criminals and to bring the show of accusation against those whose conduct, if publicly examined, would appear laudable. It was intended to counteract the select committee, and, I believe, it is very well known that it proceeded from the advice and suggestion of the grand defaulter of unaccounted millions in India. What more is wanting to render it suspicious?

Lord George Germaine :

Mr. Speaker; this is the first time that I heard of a prosecution against the select committee. I am glad the directors have taken that course. It was far from my intention to arraign the conduct of the honourable director who has communicated to us this intelligence. To do him justice, and to speak my real sentiments, I always took him to be a man of public spirit; and it gives me pleasure to find that I have yet no reason to alter my opinion. As to the charge of neglect in me or in the select committee, I cannot plead guilty to it, as I have not yet seen any thing in its enquiry that would fully justify an impeachment. When this is the case, I dare say the hon. gentleman who so worthily presides at the head of the committee, will not be tardy in doing his duty. At present the Report is open to the perusal of every member of this House; and they have all a right, if they see cause, to arraign at your bar the conduct of any person, that it holds forth guilty of high crimes and misdemeanors.

Mr. *Dowdeswell* enforced the arguments of the petitioners, and declared that he saw the intention of administration was to seize upon the territorial revenues; that he was strongly against this measure, as throwing a double weight into the scale of the crown; that the influence of the crown was already too extensive, and that liberty would be at an end for ever, if such a vast accession of places and pensions was made to those in the gift of the ministry; that, as far he could learn, the

ministry would appear from the papers that would shortly come before them, relative to the expedition against the Caribbs of St. Vincent's, to be incapable of governing the West Indies, and that therefore he could never consent to burden their feeble hands with the government of the East Indies.

General Carnac, in order, as he said, to take off the minds of the House any bad impressions which the evidence at the bar might have left with respect to the matoot, declared that it was a custom in India for every nabob once a year to make a present of rich clothes, or of some other mark of his regard to such as frequented his court and had access, that every person might go away satisfied, and that for this purpose it was found necessary to levy this tax, which was called matoot.

Lord Clive :

Mr. Speaker ; I will not at present enter into the consideration of the charges brought against the conduct of the select committee, of which I was the head. When East India affairs have been fully examined, and a general report lies before the House, I will endeavour to justify my proceedings in the East. As to this Bill, I certainly think it an extraordinary exertion of parliamentary authority ; but then I think it a necessary exertion. Assuredly I can be no enemy to the Company. There is no instance of a man who has been so liberally and munificently rewarded by a body of traders as I have been ; and I should be the most worthless of men, did I not feel myself actuated by gratitude to contribute to its welfare and prosperity. Indeed, in taking this part, I acquit myself of two duties at once, of my debt of gratitude to the Company, and of my obligations to my country ; for their interests are inseparable, and he that would divide them is an enemy to both. For this reason I am sorry to see the Company come to your bar with this Petition, and enter into a warfare with parliament. In my opinion they should have met you half way in the intended reformation, and not discovered this untimely jealousy. Those, who advised them to take this step, should have considered that it must naturally introduce the question of right to the territorial revenue. And when two such unequal antagonists as the crown and the Company cope with each other, it is obvious which will be worsted : the weakest must certainly go to the wall ;

and, if the crown should ever assume the disposal of that immense empire, miserable will be the situation of Great Britain. Accordingly it has always been my wish, that this question should never be agitated. Can I then be but chagrined at the Company's resistance of the authority of this House, and quarrelling with the mouth that feeds them ? If salvation can come to the Company, it must come through this House. The plan of supervision cannot remove the grievances of which they complain. The merit of the supervisors is best known to themselves and to the persons who nominated them. Had they known India as well as I do, they would have shuddered at the dangers and toils of the task which they were going to undertake. Great must be the knowledge, great must be the courage, perseverance and disinterestedness of the man who shall reform and restore Bengal.

Mr. Edmund Burke :

Sir ; the counsel have so ably performed their part that I shall not attempt to measure over again the legal ground which they have trod. The Bill, however, is of so unconstitutional and dangerous a complexion, that it demands something more than a silent vote ; and I should think myself unworthy of the trust reposed in me by a part of the people, were I to sit an idle hearer on such an occasion. I know, indeed, that the same qualifications now a-days make a good member of parliament that formerly made a good monk. ' *Tria faciunt monachum—Bene loqui de superiore—Legere brevium taliter qualiter—Et sinere res vadere ut vadunt.* ' In English, ' Speak well of the minister—Read the lesson he sets you, *taliter qualiter*, and let the state take care of itself—*Sine res vadere ut vadunt.* ' These—for the other side of the House must recognize the picture—these are the first and best recommendations of a modern senator. Ability, integrity, knowledge of business, a judgment of your own—But why do I talk of such antiquated accomplishments ? They and a thousand other perfections are included in the two words ' passive obedience. '

The recollection, Sir, of this House's repeated acts of passive obedience and non-resistance has in me destroyed the active influence of two of the most powerful passions of the human mind—of surprise and indignation. Formerly I have upon the passing of some votes and resolutions

sat here fixed in amazement, not able to account to myself for the strangeness of your conduct in sacrificing a permanent to a temporary interest. I have passed many a sleepless night in alternate fits of contempt and wrath, meditating with myself some scheme of reformation, some remedy to the evils, with which, I saw, such pernicious measures threatened my country. But, Sir, the heat of youth has subsided, its keener feelings are blunted. Time, that softens every calamity, has laid his headlong hands upon me, and rendered me less tremblingly alive to the wounds aimed at liberty. In spite of what is said by a gentleman at the door, who tells us that we are as young as ever, I feel age coming upon me, and with it I feel that the constitution is not growing younger. Hopeless, however, as I am, I cannot help calling to mind the Roman maxim, 'De republica non desperandum.' Though all human institutions, being born with the seeds of mortality in their very frame, must perish; yet, as the body politic is not in every respect similar to the human body, let us cherish the idea, if not of its immortality, at least of its renovation and long continuance in health and vigour.

Sir, this Bill is grounded upon the report of your secret committee. Now, if the report itself be not well grounded, neither can the Bill, which is the superstructure. That the report is ill founded is clear from hence, that the expence of the commission is the only reason stated, and that reason is by no means valid. Your committee asked—"Might not the savings intended for the payment of your commissioners be applied to the use of the Company?" "Yes" was the answer. But had they, as in justice bound, proceeded one step farther, and asked, "Can these savings be made without the commission," the answer would have been "No;" and the foundation of the report would have given way, and the whole fabric of this Bill tumbled to the ground.

Equally absurd, Sir, is the objection to the commission drawn from its giving the governor and council a vote in the deliberation of the supervisors, and from the eventual death of one or two of the supervisors. The commission requires the actual presence of three supervisors in every resolution; and the casting vote is in the first of the three; the governor, the commander in chief, and the second in council making the other three inferior assessors. Hence the supervisors have power, if they

see cause, to dismiss the governor and the whole council; and in every case they have the controul in their hands. Nor can death, except four, or above one half die, prevent them from acting with effect; and in that case they cannot act at all. Thus it appears, that the ministerial arguments on this head proceed from inattention to the subject—from absolute ignorance of the tenour and purport of the commission.

Sir, the commission being thus free from those inconsistencies and absurdities with which it has been charged by some respectable but ill informed members, where is the wonder that the proprietary, when solicited, did not rescind their resolution of sending out supervisors? Sir, the Company dares not imitate this House; it dares not undo to-day what it did yesterday; to enact and repeal alternately is the exclusive privilege of this assembly—

'Diruit, ædificat, mutat quadrata rotundis.' Such levity and inconsistency would be too presumptuous an usurpation in the East India Company.

Sir, when the Company is thus tender of encroaching upon any of our rights, is it not cruel, is it not ungenerous, in administration to harass it with two committees: with a committee of secrecy founded on the principles of the inquisition, and with a select committee, which is declared by one of its friends to be a mockery of the Company? A gentleman, who generally votes with administration, finds the Bill to be illegal, inexpedient and alarming; and he finds the secret committee to be an inquisition too rapid and violent in its motions. Another friend of the minister declares the select committee so slow in its progress as to be a perfect mockery. What is to become of the Company between both? I protest I can compare them to nothing but a jack. The select committee is the slow-moving weight, the secret committee is the flyer; and what with the slow motion of the one, and the rapid motion of the other, the Company is effectually roasted.

But, Sir, this is not the first instance of the tender mercies of parliament to the East India Company. In the reign of William the 3rd, they were obliged to bribe both king and parliament, and to compound for their existence, by a part of their wealth. What has been their fate in the reign of George the 3rd? The minister, under the specious pretext of serving, ruins them; and, in order to re-

pair the damage which his unskilfulness has occasioned, offers you a Bill that makes a breach in the constitution. Sir, in former times, a servant of the crown durst not hazard such a measure; and perhaps this is the first instance in which so open an attempt has been made to cover ministerial incapacity, under the ruins of the constitution.

Sir, in the year 1767, administration discovered, that the East India Company were guardians to a very handsome and rich lady in Hindostan. Accordingly, they set parliament in motion: and parliament, (whether from love to her person or fortune is, I believe, no problem) parliament directly became a suitor, and took the lady into its tender, fond, grasping arms, pretending all the while that it meant nothing but what was fair and honourable; that no rape or violence was intended; that its sole aim was to rescue her and her fortune out of the pilfering hands of a set of rapacious stewards, who had let her estate run to waste, and had committed various depredations. To drop the allegory—parliament took the state of the East India Company's trade and revenue under its consideration. And what was the ostensible object of this enquiry? Five reasons were assigned; the maintenance of the public faith, the support of public credit, the encrease of the Company's trade, the encrease of its revenues and the security of the stockholders.

Well, Sir, this grand and salutary plan was entered upon; books upon books, and papers upon papers were brought up and piled upon your table in such numbers, that the copying of the very extracts cost an hon. gentleman behind me 300*l*. The subject was considered and reconsidered; debate succeeded debate, and resolution succeeded resolution. One and forty times did the House sit upon this business, and more than once till four o'clock in the morning. What Sir, was the result?

"*Quid dignum tanto feret hic promissor hiatu?*"

What did this mountain in labour bring forth? No mouse, I assure you, but a fair round sum of 400,000*l*. a year to government. In this manner did parliament provide for the maintenance of the public faith, and the support of public credit! In this manner did parliament encrease the Company's trade and revenue, and give security to the stockholders? When the Company came down handsomely, and furnished a reasonable sum to pay off the ar-

rears of the civil list—arrears so honourably and usefully contracted,—the five reasons were forgot. The eyes of parliament were dazzled, and could no longer see how to make any regulations for securing the permanence and stability of that lucrative bargain which it had made.

The Company, without any formed system, without the aid of precedent, without the light of experience, without chart or compass, was allowed to steer at random through this perilous ocean. What wonder that they lost their course? The wonder would have been, if assisted by no lights, but by those communicated by servants, interested through the fear of past embezzlement, and the prospect of future speculation to mislead, they had not been bewildered and lost. The distress of the Company arises from the improvidence of administration, and the short-sightedness of parliament, in not forming for it a system of government suitable to its form and constitution. Or, am I mistaken, and were the affairs of the Company designedly left in confusion? were the directors left without any effectual controul over delinquent servants? Was the collection of the revenues left without any check? Was the tyranny of a double government, like our double cabinet, tolerated with the view of seeing the concerns of the Company become an absolute chaos of disorder, and of giving government a handle for seizing the territorial revenue? I know that this was the original scheme of administration, and I violently suspected that it never has been relinquished.

Sir, if the ministry have no sinister view, if they do not mean by this unconstitutional step to extend the influence of the crown, they will now speak out and explicitly declare their intentions. Silence will be justly deemed a confession of guilt; and they will without any injury be considered as the determined enemies of the liberty of their country. God knows that the places and pensions and expectancies furnished by the British establishment, are too powerful for the small remains of patriotism and public spirit in our island. What, then, will become of us, if Bengal, if the Ganges pour in a new tide of corruption? Should the evil genius of British liberty so ordain it, I fear this House will be so far from removing the corruption of the East, that it will be corrupted by them. I dread more from the infection of that place, than I hope from your virtue. Was it not the sudden plunder of the East that

gave the final blow to the freedom of Rome? What reason have we to expect a better fate?

I conjure you by every thing that man ought to hold sacred; I conjure you by the spirits of your forefathers who so nobly fought and bled for the cause for which I now plead; I conjure you by what includes every thing, by your country, not to yield to the temptations which the East in the hands of the crown holds out, not to sink into the gulf of corruption, and drag after you your posterity, your country. I obtest heaven and earth, that in all places, and at all times, I have hitherto shoved by the gilded hand of corruption, and endeavoured to stem the torrent which threatens to overwhelm this land; and from such temptations I pray God of his infinite mercy ever to preserve me.

Sir, I hope the House is not offended; I only repeat the Lord's prayer, and beseech him not to lead me into temptation, but deliver me from evil. And surely it becomes me to be diffident of my own virtue and self denial, when the very pillars of this House (here the hon. gentleman looked at sir William Meredith) have been shaken, and given way.

Upon the whole, Sir, the Bill is dangerous in itself, as being the first step towards a total invasion of the Company's territories in Bengal; and, supposing the motives good, yet it is dangerous for the example—unconstitutional acts founded on unconstitutional motives, springing from unconstitutional acts founded on constitutional motives. An author who is more spoken of than read, I mean Aristotle, declares that acts of this nature, which are truly what he calls *phephismata*, have the most pernicious consequences, and accelerate the ruin of every state. I do not, however, deny that you have power to pass this act. Yes, Sir, you have the power; but you have not the right. There is a perpetual confusion in gentlemen's ideas from inattention to this material distinction; from which properly considered it will appear that this Bill is contrary to the eternal laws of right and wrong—laws that ought to bind all men, and above all men legislative assemblies.

Sir William Meredith. I do not wish to trouble the House, but as I had the honour of being in that committee, I only beg leave to inform the hon. gentleman, that we were appointed to enquire into the affairs of the Company, and not to redress grievances. We are proceeding in the

[VOL. XVII.]

one, and the other we never promised. The hon. gentleman has displayed his eloquence and rhetoric with his customary facility; but all he has yet said, can only be considered as the mere invention of a lively and ingenious imagination. He compares the two committees to a jack; he says, the secret one is like the flier of a jack, and the other like the weight. I agree with him in the simile, but draw a very different conclusion. Sir, between the ponderous weight at one end, and the quick motion of the flier, the dish is prepared, and rendered fit for digestion.

Lord North. I did not intend to have said any thing to the Bill; I am satisfied that it has as general an assent as any matter that ever came into this House; but, Sir, as I have been particularly alluded to by an hon. gentleman over the way (Mr. Burke) I shall beg the indulgence of the House for a few moments. The hon. gentleman has said that government has plundered the East India Company of two million. Sir, the 400,000*l.* per annum was obtained from them for the service of the public, and not for the emolument of the minister; and since their affairs have turned out in so wretched a manner, I am of opinion that the two million is much better employed in this country than in India, to build walls round their camps, with locks and keys to keep the men from deserting. I think, Sir, it is allowed that parliament have a right over the India Company, and that parliament can do them service; then, Sir, since the one is established, and the other allowed, no objection of any consequence can be made to the Bill; and I confess, when the matter was first proposed to me, I considered it as I do now, an expedient highly justifiable and no less necessary.

Mr. Sykes. My name having been mentioned by one of the evidence, I am extremely concerned to find that my honour was attacked. The whole affair of the tax called the *matoot*, which has been considered as arbitrary and illegal, I will prove was agreeable to the form of government established by lord Clive and the select committee. I do not mean to enter into the particulars at present; but I shall, in the course of the business, wipe away every impression which may have been made against my honour.

The question being put, that the Bill do pass; the House divided. The Yeas went forth.

[2 X]

Tellers.

YEAS	{	Mr. Onslow - -	}	153
		Mr. Vane - - -		
NOES	{	Lord John Cavendish	}	28
		Mr. Dempster - -		

So it was resolved in the affirmative.

Debate in the Lords on the Bill to restrain the East India Company from appointing Supervisors in India.] Dec. 23.

The order of the day being read for the third reading of this Bill, and for hearing counsel against the said Bill; counsel were accordingly called in; and the said Bill read a third time; as also the Petition of several directors and proprietors, praying to be heard by counsel against the said Bill.

Then Mr. Impey was heard against the Bill, and called

Mr. John Hoole, who, being sworn, acquainted the House, "That the difference of the expence of the civil establishments at Bengal and Madras is, for the last year, upwards of 170,000*l.* more at Bengal than at Madras; that this difference does not arise so much from the difference of the number in the civil government at each place, as from the extra charges of the civil government at Bengal, such as contingent charges, travelling expences, &c. the salaries at both places being nearly equal; that the military establishment at Bengal is upwards of 650,000*l.* the nabob's share included, more than it is at Madras; that the batta is 180,000*l.* more at Bengal than Madras; that the number on the military establishment at Madras are 4,410 Europeans, and 18,339 sepoys; at Bengal 3,890 Europeans, 26,132 sepoys."

Mr. Richard Holt, assistant secretary, was called in; and, being sworn, acquainted the House, "That the commission for sending out supervisors has been under consideration these four months; that it originated in a committee of correspondence, which committee, on the 29th of July, were unanimous in their opinion of recommending such a commission to a court of directors; which they did, and several courts of directors were held to consider of this measure: that on the 5th of August, the court of directors agreed to call a general court of proprietors, which was done, and the opinion of the directors, that a superintending commission should be sent to India, laid before the said court; which measure was agreed to by the court of proprietors by ballot on

the 2d of September last, the majority for the commission being sent out being near three to one: that a commission, after having been discussed and considered at several general courts, was agreed to, and the gentlemen chose by the directors to go out as commissioners were approved of by a general court of proprietors by ballot on the 27th of November last, 209 being for the nomination made by the directors, and 188 against it: that the opinion of counsel was taken as to the legality of the present commission, viz. Mr. Sayer, Mr. Wallace, and Mr. Jackson: that this commission is, in some degree, similar to that sent out in 1769: that he thinks savings to a great amount might be made by sending out this commission, if properly executed, and believes it would have been properly executed if the gentlemen named in the present commission had gone out: that savings equal to those expected to be made by this commission going out, might be made by the directors sending out their orders to their servants in India, if those orders were obeyed; but the disobedience of the Company's servants in India made the sending out a commission necessary: that he thinks the present commission has, in some respects, greater powers than that sent out in 1769, but cannot point out what those powers are: that the former commission gave the power of making alterations in the courts of justice in India, which this commission does not: that the powers given at present to the governors and councils in India are very extensive; and, if properly executed, would render this commission unnecessary: that this commission differs from the former in the powers of turning out the Company's servants in India: that the committee of correspondence, on the 29th of July last, came to the following Resolution, 'That the present state of the Company's affairs in India requires the sending out a commission with extraordinary powers.'

"That six of the present commissioners, out of nine at Bengal, could controul the presidency at Bombay: that he was present at the general court, when the chairman and deputy chairman recommended the sending out this commission; and that some hint was thrown out by them that such a measure was countenanced by administration: that by the Company's charter the time is limited for calling a general court by the proprietors: that a court called by the di-

rectors has met in two or three days after calling: that on the 9th of this instant December the directors advertised a general court for the purpose of petitioning the House of Commons against this Bill, which court met on the 11th of December." [He was directed to withdraw.]

Then *Ruinsforth Tookey*, accomptant, was called in; and, being sworn, acquainted the House, "That the Company's servants in India have exceeded their orders for drawing bills on the Company here, in the sum of 1,063,067*l.* 1*s.* 2*d.* for the year 1771: that the bills were drawn in India in 1770, and advice of them received here in July and August 1771: that their orders for drawing were not to exceed 200,000*l.* and lord Clive's jaghire, which is 30,000*l.* per annum: that they were to draw for this money in bills at 2*s.* 2½*d.* the rupee, at 365 days sight, without interest: that the bills drawn by the Company's servants in India, are drawn at one, two, and three years after sight; part of each class at 2*s.* 2½*d.* the rupee, and part at 2*s.* 3*d.* the rupee, and to bear 3 per cent. interest after the first 90 days: that the Company have paid to government, on the indemnity on tea, near 281,000*l.*, and owe at present to government for the same 202,000*l.*: that they have paid and owe to the buyers of tea sold before March sale 1772, 210,000*l.*: that the loss on the price of tea is 300,000*l.*: that the Company sold 31,000,000 pounds of tea at upwards of 100,000*l.* less profit than they sold 21,000,000 pounds of tea: that the losses on tea, and the over-drawings of the Company's servants in India, account for the present deficiency in the Company's cash: that the Company have paid to government, since their agreement with government, 1,800,000*l.*: that they at present owe to government, on that agreement, 200,000*l.*, due on the 29th of September last; and another 200,000*l.* will become due on the 25th of this instant December: that if the dividend should be reduced, 26 days are to be taken from this last payment: that the net duties paid to government for the last five years, amount to 1,109,065*l.*: that the proprietors have received 918,296*l.* more than 6 per cent. on their stock to Midsummer last: that the whole sum received by proprietors since the agreement with government is 1,972,342*l.* That the net profits of the Company's trade preceding the duana for five years, amounted to 441,620*l.* which was more than sufficient to divide 12 per cent. upon."

Then Mr. Adair, the other counsel against the said Bill, was heard. After which the counsel being directed to withdraw,

The Duke of *Richmond* said:

My lords; the evidence delivered at your bar militates, in every possible point of view, against the propriety of the present Bill, and leaves very little room for me to add any thing on the subject. The ruinous state of the Company's affairs, both in England and India, would be only melancholy to dwell on. It might, indeed, remind us of the different measures which have brought them into that state; but that would be little more than a repetition of facts, and the arguments that were employed to enforce them. Give me leave, my lords, however, to trouble you with a few seasonable remarks on the present Bill, and the pretended reasons on which it is founded. Among the many superior advantages we enjoy over our neighbours, and indeed I believe the whole world beside, are the numerous good consequences arising from our high reputation for national faith: while this remains inviolate, though our internal resources should fail, we can never be at a loss for money. This is the grand support of all our trading companies, the Bank, South Sea, &c. It is our sacred regard to parliamentary engagements that enables us to procure money with greater facility, and upon more eligible terms than any other nation in Europe; not only from our fellow subjects, but almost all others who have a shilling to lend: what then will be the consequence of the present Bill? Why foreigners, alarmed at such an extraordinary interposition, will endeavour to sell out. This will reduce the price of all kinds of stock, and the public creditors must be ruined. There is one circumstance attending this Bill which deserves our most serious consideration: that is, the supposed countenance, and promised protection from administration, of that measure it is intended to rescind. If administration gave any such promise, they deserve to be impeached; if they did not, the chairman and deputy chairman, who have called down on the innocent proprietary the indignation and displeasure of parliament, certainly deserve to be impeached. I shall conclude my entire disapprobation of the Bill now before us, by observing, that if it should pass, the rapacity of the Company's servants, and all the dreadful

consequences which they portend, must remain unredressed for another year: for, granting what the promoters of the present measure would pretend, that parliament are in good earnest, and mean really to serve the Company effectually; yet, before their intentions can be brought to maturity, the season for going out will be passed, and, in all probability, the Company irretrievably ruined. This was strongly verified when lord Clive went out last, his lordship being eleven months on his passage.

Lord Rochford:

My lords; the noble duke's fears relative to the expected operation the present Bill may have on our public stocks, however praise-worthy they may be, I believe are very ill-founded: on the contrary, I am certain the Dutch in particular, who I believe are the principal public creditors, will be much better satisfied with their security on account of the present interposition, than they would by that of any company, however respectable. The noble duke has said, that administration approved of the measure of sending out a superintending commission; but I think I may venture to affirm, that the noble duke is misinformed. For my own part, I can answer for myself and the rest under that denomination in this House; nor am I less satisfied that no such promise was made by any part of it in the other House. It is totally improbable: the very reasons now offered at the bar must have prevented it: I mean the ruinous state of the Company's affairs. I remember, indeed, that many propositions were made by the chairman and deputy-chairman, to promote a temporary relief from their pressing exigencies, such as issuing out bonds to a certain sum, &c. but I recollect very well that they were rejected. Administration could not, dared not, grant any such request. The bond-creditors' securities could not be lessened without a manifest injustice to them; it was therefore the distresses of the Company, and the inability of administration to assist them, that first suggested the necessity of submitting them to parliament, in order that they might be legally and effectually removed. In such a case, then, can it be believed that administration would consent, much less promise their protection to any plan, until parliament had first approved of it? Besides, my lords, what is this Petition now heard at

our bar? Is it a corporate act of the Company? No; it is a petition from 14 proprietors. It will be said, perhaps, that the time has been too short for the summoning of a court: the Bill passed the other House on Friday; and will they pretend to say, that they had not time between that and Wednesday, when it is plain, from the evidence at the bar, that courts have been assembled on a shorter notice? Particularly on account of the very Bill now before us, the proprietors were summoned the 9th and met the 11th instant. For these, and many other reasons, I am for the third reading of the Bill.

The Duke of Richmond:

My lords; the noble lord who spoke last has not only denied the charge now made against administration, concerning their approbation of sending out a superintending commission, as far as himself is concerned; but, both by implication and reasoning, would have us believe that no such promise had or could have been given. However powerful his lordship's reasons may be, or strong his assertions, I cannot by any means assent to them, as a proof of what might not possibly have come within his lordship's knowledge. For, if I am not totally misinformed, the true state of the transaction was this: the supervision scheme being proposed to some in office, it was understood to be one condition of it, that government should have the appointing of one of the supervisors; but the directors having either failed in their engagement, or promised more than they were able to perform, administration immediately altered their sentiments. If the fact be otherwise, and that the persons who propagate this report have invented it purely to excuse themselves, I think it highly incumbent on those more immediately pointed at, to set on foot an enquiry, which may exculpate them from that odium which must otherwise be the consequence of so scandalous and daring an abuse of that power with which the constitution hath entrusted them. As to what the noble lord has advanced, relative to the Petition at your lordships' bar not being a corporate act of the Company, that cannot deserve the least attention, when it is evident, that they had not sufficient time to act in their corporate capacity; for the Bill was brought into this House on Saturday, and was reported in the public

papers to have been read three times in that day. The earliest step the Company could have taken would have been on Monday, to give notice for a general court; therefore no resolution could have been come to till this day. What advantage or satisfaction this might have been to the framers of the Bill, may be easily imagined; I am sure it could be of no service to its opposers.

The Lord Chancellor :

My lords; I shall not enter into any consideration of the arguments of the noble duke, because I think nothing is properly before us, but whether the reasons on which the Bill is framed be sufficient to entitle it to our concurrence, and the facts on which those reasons are founded are fully proved. The first of these is, that the Company have appointed a superintending commission, with extraordinary powers; the other, that they persisted in putting their design in execution, after they knew that parliament had agreed to take their affairs under consideration; both of which have been proved at your lordships' bar: the very title of the commission speaks the first, and the evidence at the bar the latter. This, in my opinion, would well warrant us in passing the present Bill; nor should I trouble the House with any further reasons, did not some strike me so forcibly that I cannot help taking notice of them. Here is a Bill passed by the other House upon the most cogent reasons, almost without dissent, 28 voices only being against it, and persons of all parties joining cheerfully in its support. Again, the present Petition is signed by only 14 proprietors, out of 1,700, who have a right to vote, besides aliens who have not. In my opinion, personal charges, supported by loose and uncertain informations, should be urged very sparingly. On the whole, every ground this Bill can possibly be taken upon, either in what has been advanced in or against its support, I think it deserves our hearty concurrence.

The Duke of Richmond :

The noble lord on the woolsack has made an application of what I advanced in general terms, in a manner I never intended it. I hope his lordship will therefore excuse me, if I more directly address myself to the noble lord, who he mistakenly supposes was the immediate object of my animadversion, to assure him,

that nothing was farther from my thoughts. I have no more doubts of his lordship being totally innocent of the particular charge, than that the charge itself cannot be denied, let it light where it may. The noble lord who spoke last seems to lay great stress upon the comparatively small numbers of the petitioners. I have spoken to that point before, and shall only now remark, that suppose but one person had been injured by the present Bill, his particular claim would not in the least be impaired thereby. As to the attention that this Bill deserves from the manner it passed the other House, I fancy his lordship forgets what little notice his lordship and a great majority of this House paid to a Bill which came last session much more highly recommended than even the present favourite.

The House divided; Contents 26, Non-contents 6. The Bill was then passed.

Protest against passing the Bill to restrain the East India Company from appointing Supervisors in India.] The following Protest was entered on the Journals :

“ Dissentient.

1. “ Because the Bill takes away from a great body corporate, and from several free subjects of this realm, the exercise of a legal franchise, without any legal cause of forfeiture assigned. The persons appointing the commission had by law a right to elect; and the persons chosen had by law a capacity of being elected. The choice was regularly made according to the constitution of the Company. It was confirmed on ballot. The supervisors had a full right vested in them, agreeable to the powers and conditions of their appointment. No abuse has been suggested, no delinquency has been charged. These legal rights and capacities are therefore taken away by a mere act of arbitrary power, the precedent of which leaves no sort of security to the subject for his liberties; since his exercising them in the strictest conformity to all the rules of law, as well as to those of general equity and moral conduct, is not sufficient to prevent parliament from interposing its sovereign powers to divest him of these rights, by means of which insecurity the honourable distinction between the British and other forms of government is in a great measure lost; a misfortune which we are sorry to find greatly growing upon us by those temporary occasional and partial acts of par-

liament, which, without any consideration of their conformity to the general principles of our law and constitution, are adopted rashly and hastily on every petty occasion.

2. "Because this Bill appears to us a manifest violation of the public faith. The charter of the East India Company has been granted by the crown, authorized by act of parliament, and purchased for valuable consideration of money lent and paid. That charter empowers the Company to manage its own affairs, according to its own discretion, by persons of its own appointment. This Bill suspends for a time the exercise of this privilege; and by grounding the suspension upon the actual interference of parliament in the affairs of the Company, establishes a principle which may be used for perpetuating indefinitely the restraint, because parliament may keep their affairs, by frequent revisions, almost perpetually under consideration. The same principle is also applicable to the suspension or deprivation of any other privilege which they hold under their charter. We admit that it is difficult to fix any legal limit to the extent of legislative power: but we apprehend that parliament is as much bound, as any individual, to the observance of its own compacts; else it is impossible to understand what public faith means, or how public credit can subsist.

3. "Because it appears, by evidence at the bar of this House upon oath, that the Company had received assurances from the chairman and deputy chairman that the appointment of a commission for superintending and regulating their affairs would be approved by administration. This is the only channel of communication with ministers that the Company can have; and it is peculiarly hard that, driven from all confidence in public faith and the laws of their country, they should find no security for their charter privileges against the attempts made by those very ministers under whose sanction they had all possible reason to believe they had been acting.

4. "Because it appears to us that the Company was not only authorised by law, but bound in duty, to appoint a commission for regulating their affairs and correcting abuses; and it would, in our opinion, furnish a more plausible ground for attacking the lawful powers of the Company, if it were charged that they had not exercised them for the redress of the said abuses, than that they had appointed a

commission for such a necessary purpose. It might have been alleged by the adversaries of the Company, that *non-user*, and neglect of applying legal powers for the ends for which such powers were given, were matters of delinquency in that corporation; and might have subjected them to process in the courts below, or to an adverse proceeding in parliament. It is a government, as we conceive, full of deceit as well as violence, where men are to be punished if they decline, or to be restrained if they endeavour to exercise, their lawful powers.

5. "Because we have reason to believe, from public opinion and report, that great abuses still prevail and increase in the Company's settlements abroad, which makes it highly expedient that the commission restrained by this Bill for six months should have as little delay as possible. Six months delay in the commission will, by the nature of the season, certainly protract its operation for a year, and, probably, for much longer; by this means all abuses will gain ground, and their reformation will become more difficult: nor can we allow that the speculation of more ample powers to be hereafter given by parliament, (but which are not as yet so much as proposed), can furnish an adequate reason for preventing the operation of such powers as legally exist at present. Besides, without suspending the commission, any degree of authority thought expedient might have been superadded to the present powers given by the Company. We do therefore, in this solemn manner, exculpate ourselves, to the present time and to posterity, from having any share in the oppressions which may arise or be continued on the native inhabitants in the Company's possessions in India, from any part in the danger which may happen to their valuable possessions, from the waste or decay of the revenues, or in the loss or diminution of trade, which may so very probably arise from this wanton and arbitrary delay of a timely remedy. It must be a matter of astonishment to the public, who have for a long time earnestly and anxiously looked to the Company, or to parliament, for redress of the grievances in India, to find at length that the latter is only employed in preventing the former from doing its duty; that, instead of correcting the abuse, we oppose ourselves to the reformation; that when it was expected that those who have wronged the Company should be brought to

exemplary punishment, the suffering Company itself is deprived of its rights; and instead of calling delinquents to account, the persons legally empowered to correct or restrain them are by parliament suspended from their office. It was the more necessary for the Company to give the strictest attention to their affairs, to enable them to answer the exorbitant demands of government; as it appeared from the witnesses at the bar that the exactions of parliament have amounted to more than the whole of the profits from the late acquisitions, and the trade in consequence of them; while the proprietors, who have spent so much, and so often risked their all for the obtaining these acquisitions, have not been permitted to divide even so much as the profits of their former trade would have afforded.

6. "Because the Bill was brought in at a season when this House is always ill attended, and carried through with a violent and indecent precipitation. The reason assigned for this precipitation, is as unsatisfactory as the act is violent, 'That unless the Bill was passed, the commissioners might sail during the recess at Christmas.' This, considering the circumstances, is almost physically impossible; nor if it were otherwise, can we think the mere possibility of the abuse of a legal right in the subject any sort of reason for our being precipitate in taking it away.

7. "Because a reason of fact is alleged in the preamble of the Bill, stating the expence of the commission to be very considerable. This House has not before it any account or estimate of the expences actual or probable; nor are we supplied with any accounts shewing, or tending to shew, the present ability or inability of the Company to bear it; so that lords are made to assert facts, and on these facts to ground a law, altering the condition, and suspending the charter rights of the Company, without a possibility of knowing whether the said facts are true or false. Lords, in whom the law places such an high confidence, that it accepts, in all cases of property, their honour in the place of the sworn testimony of other men, ought, in their public character, to be remarkably punctilious in affirming any matter which can affect such property, without a thorough knowledge of its truth.

8. "Because this House, not content with asserting the said facts, without any knowledge of their foundation, did absolutely resolve to continue uninformed, re-

fusing to call for the evidence of the directors concerning the expence, or in a matter of such importance, both in itself and in its example, to follow the ancient settled parliamentary course of desiring a conference with the Commons, in order to be acquainted with the evidence which they had received, as the grounds of their proceeding; by which means this House submits to be the instrument of the Commons, to be merely the register of their acts, and to lower, in the estimation of the world, the natural honour and dignity of the Peers.

"Lastly, because this Bill for suspending the legal powers of the Company in the appointment to its own officers, appears to us to be part of a design long since formed, and never abandoned, for enlarging the influence of the crown, (already far too prevalent and extensive), by the introduction of ministerial authority, in the nomination to the numerous lucrative employments now in the gift of the Company; a design which, adhering to the principles of the Protest of the 9th of February 1768, we think ourselves obliged to oppose. We, therefore, do protest against this Bill, as evidently a leading part in that design, as inexpedient, unconstitutional, supported neither by any fact that we know, nor any reason that we have heard; as contrary to national faith, injurious to public credit and to the legal rights of the subject; and hurried through this House in a manner neither decent nor parliamentary, nor suitable to the independence and dignity of the Lords.—
(Signed,) Richmond, Torrington, Boyle, Portland, Devonshire."

1773.

Debate in the Commons on the Bill to encourage Foreigners to lend Money upon Estates in the West Indies.] January 22, 1773. The House resolved itself into a committee of the whole House, Mr. Dempster in the chair, on Mr. Pulteney's motion to bring in a Bill for encouraging foreigners to lend money on estates in the West Indies on mortgages, and to authorise them to sell the lands so mortgaged for the repayment of their principal and interest at the end of a certain term, and under certain restrictions. Mr. Pulteney, before he made the motion, informed the House that there was a gentleman waiting at the door who could give the necessary

information relative to the propriety of the proposed Bill.

Mr. *Oliver Nugent*, a merchant in Dominique, was accordingly called in and examined at the bar. The most material part of his evidence was, that the sugar islands in general, particularly the ceded lands, were in great want of money; that he knew of many applications for that purpose; that he himself, he was sorry to inform the House, was one of that number; that without some immediate aid of that kind, the improvements that have been made in those islands must be lost, and the planters consequently ruined, which must be a very great injury to the nation; that money might be easily procured at a very low interest, both in Holland and Genoa, if the present Bill should pass; that the present rate of interest in those places was from 2 to 3 per cent. while it was at least 8 in the islands, and not to be procured on any terms; that the sum wanted would not in the whole exceed one million and a half he believed, nor would such a loan affect the stocks but in a temporary manner, nor would it lower their price, computing on the largest scale, above one and a half per cent. that the greatest part of the money to be borrowed would be procured in small sums, paid in by subscribers at perhaps 100% or so, to the different houses in Holland, and again lent out to the West India planter on a collateral security of some eminent merchant in London; that the Dutch, and other foreigners, when legally secured, would be very well pleased to have 5 per cent. for their money; that he knew of money being already procured in the same manner by the planters in the island of St. Croix, and that the salutary effects arising therefrom were too notorious to require any proof; that the produce of the West India islands in general were evidently on the decrease, for by a paper which he had in his hand, it appeared by the custom-house entries, that in some preceding years the quantity of sugars imported annually has been from 100,000 hogsheads to 104,000, whereas in the last years it had come down to 93,000 hogsheads; that the great scarcity of money, and difficulty in procuring it, might, he believed, be in a great measure imputed to the late failures, and the very great shocks which credit in general had sustained; that there could be no danger that foreigners would, by lending money in the manner now proposed, get the consignments from the West

Indies into their hands, because no person would be found to join in a collateral security, without having the consignments both in regard of indemnity and emoluments.—Mr. Nugent having withdrawn,

Mr. *Pulteney* said:

Sir; there are several other gentlemen ready to attend; but as their testimony is the same as what you have already heard, I will not trouble the House with any farther evidence. The intention of this Bill is to procure money for the cultivation of the sugar lands at an easier rate than it can be obtained at present. Foreigners have hitherto been restrained from lending money, on account of the difficulty in recovering it. One of the objects of this Bill, Sir, is to remove that difficulty and enable them to advance their cash with safety. They may now, indeed, bring actions at law, while the two nations are in amity with each other, but in case of a war, no actions of foreigners against the subject will hold good; neither, Sir, can foreigners hold land here; and this is not peculiar to us, but common in every other country. Now, Sir, it is not meant to intrude on the ancient law of the land, but to secure them by mortgage. We have another kind of security amongst us by bond in judgment; but this method is very disagreeable to the borrower, while that of mortgage is the most convenient to both borrower and lender. In mortgages we have two methods of recovering, one by foreclosure, and the other by application to Chancery, for leave to sell the estates and pay themselves. This latter method I propose foreigners should have under proper restrictions. Some objections have indeed been made, but they are very trifling. The most material are these, that it will reduce the price of sugars, and hurt the old planters. This, Sir, is very improbable, and, even if it was founded on fact, not sufficient to destroy the Bill. America, Sir, takes great quantities of sugar, and it is a growing country; besides, Russia imports large quantities, and are encreasing in their demands every year.

The next objection is, that it will affect our stocks, by making foreigners, who hold large sums in them, sell out. This, Sir, is not probable. You have already heard, the rate of interest in Holland is from two to three per cent. on mortgages. In our funds they receive three and a half; and it is not likely they will leave their

money at home at two per cent. and dispose of that at a greater interest. Besides, Sir, the mode of raising money in Holland will be by subscription. Some large house will open, and the lesser merchants will subscribe 100*l.* or 1,000 gilders, for which bonds will be given; and these will be negociated like our India bonds. The next objection, Sir, is that it will encourage the interest to be spent out of the kingdom: undoubtedly it will; and is it not so at present? Another objection is, that as collateral security is required, the large houses will engross all the business of commissions. They will certainly have more, and they always have had; therefore no considerable difference will be made by this Bill. The last objection is, that it will encourage smuggling, as the borrower, being at the mercy of the lender, will be obliged to take in contraband goods belonging to the Dutch, and carry them to the West Indies. This, Sir, is very easily answered. In the first place, the planter will scarcely borrow 15 or 20,000*l.* to pay back in a year. The way I imagine it will be is for ten years certain at least, and during that time the borrower is as independent of the lender as if he did not owe him one farthing. Therefore you see, Sir, this objection is of no consequence at all; for, at the expiration of ten or fifteen years, the planter may pay off the mortgage. These, Sir, are the several objections which have been urged against the Bill, and which, I think I have answered to the satisfaction of the committee. I had the honour of making this motion two years past, and it was lost by a small majority. Since the great injury credit has of late received, I conceive this Bill to be doubly necessary, as the present scarcity of cash prevents the planters from proceeding; and if they are not enabled to go on, the consequences will be very fatal to them and the mother country. It was my intention to have made this motion, even if this confusion had not happened, and I hope the committee are satisfied of the propriety and expediency of it. I therefore move, Sir, That it is the opinion of this committee, that a Bill to encourage foreigners to lend money on the estates of British subjects in the West Indies, and to enable them to recover, by application to the court of Chancery, under proper restrictions, their property, would be highly beneficial to this country, and contribute to encourage and extend the cultivation of lands in the sugar islands.

[VOL. XVII.]

Mr. Dowdeswell. Sir, I rise up to second the motion of my hon. friend. He has entered so minutely into it, and answered the several objections so particularly, that I have nothing farther to say at present. The utility of this Bill is very plain. It is, Sir, to supply a body of people with money at an easier rate than it can be had at present, and it is founded on the true principles of commerce. I shall therefore content myself with merely seconding it, since my honourable friend has so ably and fully stated it, reserving what may be further said, should any other objections be made.

The motion was agreed to, and the Bill was afterwards passed into a law.

Debate in the Commons on the Bill to shorten the Duration of Parliaments. January 26. The order of the day being read,

Mr. Alderman Sawbridge said:

Sir; I rise, according to my promise, to make a third time the motion I have twice before made in the two preceding sessions, for leave to bring in a Bill to shorten the duration of parliaments. However anxious my wishes are, I must confess that I do not flatter myself with any hopes of present success. For I cannot expect any assistance from those members of the House who are now in administration, nor from those who have been in administration, nor yet from those enthusiastic general admirers of the Revolution, who hold every thing as sacred that has flowed from it; and think, because it was a remedy for former evils, that we need not concern ourselves about its subsequent abuses. For my own part, I own I differ so much from these last gentlemen, that, in my opinion, it were better to have had no revolution, and to have continued our old race of tyrants, than to see a septennial parliament established under any family whatever. The only support the present motion can expect, must come from those who act on a genuine, unmixed principle of public good, and an opinion of the duty they owe to their constituents: in short, from those who consider themselves, as they are, the servants, not the masters, of the people. Whatever may at present be the number of such representatives, I will continue to trust that a day must at length come, when they will once more compose a majority in this House, and will restore to us again that honest

[2 Y]

and equal constitution, to which this nation is indebted for all its glory and prosperity, and by which alone the people can again enjoy justice, security, and happiness.

Sir, I have already, upon the two former occasions, so fully stated the grounds and motives of my motion, that I need not now enter into a long detail of them; I shall therefore only repeat to you, that we are indebted to the old Saxon constitution for every valuable privilege we enjoy. It continued to flourish inviolate for more than 500 years, and preserved its vigour merely by a real representation of the people, and by short parliaments. From the Norman invasion, until the reign of Henry 3, they were either discontinued, or not suffered to have effect. From which period, after a glorious struggle of more than half a century, this valuable acquisition, a short parliament, was recovered, and the constitution happily brought back to its first principles. The frequency of parliaments, and their happy consequences, are incontrovertible from that time till the reign of that bloody tyrant Henry 8, under whom they were again lengthened, and who set the first example of a seven years parliament. The scandalous corruption, and the bloody acts of that monster of cruelty, which they authorized, are the best comments on the first septennial parliament. From his demise till the time of the Rump Parliament, we were freed from this only sure bane of English liberty. To this last succeeded the long Pensioned Parliament of Charles 2, whose acts and whose corruption are too recent and too well known to need any animadversion. After the Revolution, many wise and independent good men endeavoured once more to put it out of the power of future bad princes or corrupt ministers to do any effectual mischief to the constitution: and they found it impossible to effect this security by any other means but a short parliament. They at length prevailed so far as to obtain the Triennial Bill to be passed into a law. All the advantages of which were again lost, by passing the fatal Septennial Bill in the year 1715. Whether parliaments have been more pure or more corrupt since this establishment, let every honest man judge. I do therefore, Sir, as the only possible remedy for all the evils we have seen and felt, and fear, now humbly move for leave to bring in a Bill for shortening the duration of parliaments.

Mr. Alderman *James Townshend* (Lord Mayor) said :

Sir; I desire to second this motion, though with as little expectation of present success as my hon. friend who moved it. I know too well the disposition of this House, and the reasons which the majority have to prefer a seven years to a shorter lease, to believe that any proposal, which tends to alter their situation, will be admitted. However, I hope, and firmly trust, that he will persevere in an annual repetition of this motion, undismayed by the present reception it may meet with. The integrity and clearness of the principle will make amends for the small numbers who now are willing to embrace it; and notwithstanding the disheartening appearances of the present state of public spirit amongst all ranks and orders of men, both within doors and without, I have a firm reliance that the pressing distresses which now hang over us, and the never-failing consequences of a corrupt and shameless government, which must, from day to day, continue to pour in upon us, will at length produce from necessity the only saving measure of a short parliament, which is now denied to right and justice.

As soon as the Lord Mayor had finished, there was a general clamour from all sides of the House, crying—"The question! the question! the question!" And no person appearing willing to say a single word upon the subject, the Speaker was going to put the question; when—

Mr. Sheriff *Oliver* said :

I rise, Mr. Speaker, in behalf of administration, [the House was instantly in a dead silence, and every ear turned to attention] and of opposition jointly; because on this subject they appear to be united. And I desire to give a few reasons in favour of a great majority of this House, who are going to vote against the present question, without having any argument at all in their own justification. It would be a great pity, Sir, that the merits of the cause should be unknown through the modesty of those who are favourers of long parliaments. Sir, the very being of such an administration as the present, and of such an opposition as the present, depends upon the continuance of long parliaments. By the wise constitution of this country, the executive part of government was entirely vested in the king. A fixed

and permanent system of laws was established as the measure of his government. The forms and ceremonies of legal proceedings were intrusted to the judges. But the solid application of justice, and the disposal of their property, remained solely in the people. Of such a constitution an occasional or short parliament was a necessary part—a part of the constitution, but no part of the government. Parliament was by no means appointed to govern; but merely to be a check upon government, to watch over the king and the courts of justice, to guard the rights and privileges of the people, and in their name and by their appointment and direction, to grant occasional national supplies for national purposes.

The natural consequences, which indeed we have experienced, of long parliaments, is to make them forget and neglect the very ends of their institution, and to consider themselves no longer as mere delegates and attornies of the people, but as persons chosen for seven years to be the absolute governors of the country. Long parliaments are equally injurious to the lawful power of the crown, and to the security of the people. The sole exclusive right of executive government is taken from the one, and the necessary check is lost to the other. In one word, the parliament, which was appointed to watch over, is become itself the administration. The faithful race of shepherds' dogs is extinct, and, by an unnatural copulation, a breed of wolves are left to guard the flock.

Sir, I do not attempt, by way of inference and probable conclusions, to foretel what will come to pass; I speak of what we have seen. I had the honour to second the motion of a learned member of this House, whom I am sorry not to see now present, for an enquiry into the conduct of the courts of justice.* It was rejected. Notwithstanding an acknowledged ample provision had been made for the crown, it is not long since half a million was voted in this House to his Majesty. When an enquiry into the application of it was requested, that was likewise refused. When ever any national supply is moved for, however enormous the sum, it is readily granted; for the administration, who receive it, sit upon these benches. When ever an effectual enquiry into the applica-

tion of money is moved for, it is as readily refused; for the administration, who apply it, sit upon these benches. The proceedings of courts of justice, and the application of public money, were formerly the great objects of parliamentary enquiry. They seem now to be considered as a misemployment of the time, and a derogation from the dignity of a British parliament.

Instead of these trifling considerations, our attention is now drawn off to more solemn and important subjects of legislation and debate. We still continue to be a check indeed—a check upon hackney-coachmen: whilst we pass over the common vulgar topics of public justice, and millions of public treasure, the most minute enquiry into their conduct is permitted; an Act has lately been passed to oblige them to hold in their hands the strings of their coaches; another was proposed last session to determine how many passengers they should suffer to ride on the outside; and the next may possibly produce another to oblige them to pull off their hats to their customers. Sublime contemplations! which short parliaments would not have time to ripen into laws. Such are the worthy notions of legislation! such the important occupations! such the natural consequence of long parliaments! But, Sir, besides these great advantages of long parliaments—administration parliaments—the crown is by their means delivered from any humiliating obligation to the people. Does the King want money? Administration will supply him. Theirs is the grant, and to them only is the obligation; an obligation easily repaid, by suffering those who vote it to share largely in the plunder. Under such circumstances as these, the gentlemen connected with administration are surely justified in voting against the present question: to do otherwise would be an act of suicide.

The same considerations will serve to justify the bulk of opposition who vote against the present question. They have already been, and it is not improbable to suppose that they may again be in office on the same plan. They have therefore no objection to a long administration parliament, provided themselves compose a part of it. The expectation of this, I apprehend to be the chief cement of their union, and it is merely an act of self-defence to vote against a short parliament, whose consequences, by excluding them from a share in administration, must necessarily break them in pieces.

* Mr. Serjeant Glynn's motion for a Committee to enquire into the Administration of Criminal Justice. See vol. 16, p. 1215.

Such, Sir, appearing to me the real motives for rejecting the present question, and the only arguments that can be truly urged against it, I have acted a fair and candid part, by giving the whole strength of the adversary's defence, and by not suffering those justifying reasons to lie concealed, which their modesty might not permit them to avow. For my own part, Sir, having no connection, and being determined never to have any, either with those who are, or have been, or may hereafter be, in administration, I have none of their reasons to restrain me from following my principle. I abhor a long, absolute, administration parliament, because it leads directly and by hasty steps to the very last dregs of despotism. I think that human security cannot receive, nor human policy devise, a more lasting and efficacious security than real representatives of the people assembled in a parliament short in its duration and session, sovereign in its power of controul, but stripped of every attribute of executive government.

Mr. Duntze :

Sir ; I must implore the patience of the House for a few minutes, and intreat their indulgence for my defects. I pretend to no excellence as a speaker, I am sensible of my inability, and feel myself very unequal to the task of speaking before so respectable and honourable an assembly. But, Sir, I cannot content myself with giving a silent vote upon a subject like this. I think it highly important, and well worthy the attention of this House. I have a very great respect for the character of the hon. member who moved this question, though I have not the honour of his acquaintance : and I am confident, that he is well persuaded of the propriety of the motion he has made : and yet, Sir, I own my sentiments differ very widely from his. I cannot think that this plan of a short parliament will obtain any of the advantages hoped for, or prevent any of the grievances complained of. On the contrary, it would be attended with numberless mischiefs beyond what we now suffer. I appeal to every gentleman who hears me, what distractions, disturbances, and confusion, always attend the present elections. If parliaments were triennial, there would be very little interruption to these disorders ; and if they were annual, the disturbances would be perpetual. Besides, Sir, what prospect would there be of a fair election ? What gentleman would

petition ? and, if they did petition, how could they be determined ? Sir, the parliament would be dissolved before half the petitions would be heard. We should have nothing but false returns, confusion, and disturbance : and therefore, for the sake of peace, I shall be against the question.

As soon as Mr. Duntze had finished, the cry was repeated from every side of the House—"The question, the question !" Which being put, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Alderman Sawbridge -	} 45
	{ Lord Mayor of London -	
NOES	{ Mr. Lockhart - - -	} 133
	{ Mr. Duntze - - -	

So it passed in the negative.

Motion for a Bill to regulate Private Mad-houses.] Feb. 1. Mr. Thomas Townshend addressed the chair as follows :

Sir, I rise in consequence of the notice which I gave previous to the holidays, of a motion I intended to make for an enquiry into the state of Private Mad-houses throughout the kingdom. I wish gentlemen would enquire particularly into the abuses which actually are committed, and make themselves masters of this subject, which I conceive, Sir, to be equally serious and important. Some facts have reached my knowledge, which would awaken the compassion of the most callous heart ; and I am assured such cruelty and injustice is shewn to individuals, who are often confined from interested motives, that cannot be equalled in any other European state. A matter of this sort has been formerly agitated in parliament, and was carried on with great expedition, but did not succeed, owing to the part the gentlemen of the long robe took against it. I address myself, therefore, particularly to those gentlemen, and wish their assistance. It may, perhaps, be considered as an unpardonable instance of presumption in me, to take an officious lead in this affair ; but, Sir, while I have the honour of a seat in this House, I shall ever think it my duty to contribute, as much as in my power, towards the alleviating the distresses of my fellow creatures : I therefore give notice, that on Thursday se'nnight, I shall move that some papers of intelligence, which were produced in the year 1763, be laid before the House, and gentlemen will from them receive some very authentic and interesting information.

Mr. *Mackworth*. Sir, I rise to second my hon. friend. Private mad-houses are indeed become very great nuisances, and I have evidence in writing sufficient to shock the most hardened heart. I am glad to find an hon. gentleman so able has undertaken this matter; and I wish with him, that we may have the assistance of the long robe; I am sure, Sir, that we cannot employ ourselves in a nobler manner. Private mad-houses, agreeable to their original institution, are the greatest charities in this kingdom. Every gentleman must suppose, that the loss of understanding is the greatest misfortune that can attend us. I do not wish to see private mad-houses suppressed, but put under such regulations, that the magistrates in the counties through England may have it in their power to see justice done to those who are unhappy enough to become inhabitants of those places. I am sure, Sir, there is cause sufficient to rouse the humanity of the gentlemen of this House. The scenes of distress lie hid in obscure corners; but if gentlemen were once to see them, I am convinced they would not rest a day until a Bill for their relief was passed; and, for my part, I solemnly protest, that I will neither mind time nor trouble, but employ every hour until some relief may be obtained. The gentlemen of the long robe have been against us: they are the powerful quarter that opposed a Bill of this sort; but I trust, when they are acquainted with the abuses which I have actually seen, they will render every assistance possible towards the completion of so charitable and laudable an undertaking.

Feb. 11. Mr. T. Townshend moved, that the Report,* which, upon the 22d of February 1763, was made from the Committee, appointed to enquire into the state of the Private Mad-houses in this kingdom, might be read.

And the same being read accordingly, the right hon. gentleman next moved, That leave be given to bring in a Bill for the regulation of Private Mad-houses. Leave was accordingly given. The Bill passed the Commons, but was rejected by the Lords.

Motion for a Bill to regulate the Assize of Bread.] Feb. 1. The House took into consideration the Report of the Com-

mittee appointed to examine the several Laws now in being, relative to the Assize of Bread. (See p. 555).

Governor *Pownall* informed the House, that his Majesty, ever anxious for the welfare of all his subjects, particularly for those who more immediately demanded his paternal care, had recommended the deplorable situation of the laborious and industrious poor to the consideration of this House: that the noble lord, who is supposed to be the minister, had, in conformity with his Majesty's wishes, turned his attention to that subject, and had accordingly moved for a committee to enquire into, and reduce, the present high price of provisions; that however desirable the attainment of such an object might be, it was improbable, if not totally impracticable, because, whatever might be gained in one way, must be counteracted in another; that to form any permanent plan for a general reduction of the necessaries of life, while it held out false lights, if proved, would be found big with concealed mischief: that to lay down any scale of this nature, the influx of specie of late years, the encreased value of labour, and the produce of the fruits of the earth, must be jointly taken under consideration: that in matters of so much and so notorious uncertainty it would be embracing difficulties, and involving us in greater evils than any we now labour under: that though we could not fix on a certain standard between gold and silver on the one part, and labour and the products of the earth on the other, we could, nevertheless, form an estimate of the real value of the latter, with reference to each other, as well as under their several denominations at former periods: that among those that were most practicable, and of greatest importance, the reducing the price of bread claimed our first attention: that it appeared, by the Report, that a bread might be made out of flour, containing three-fourths of the wheat, equally nutritious with that fixed by the assize of the 31st of the late king: that by the tables of the 8th of Anne, for fixing the assize, it appears, that they directed such a bread to be made, that if the Act of the late king were repealed, and the assize of Anne again adopted, whereby a flour representing the whole wheat were made, it would produce as wholesome and as nutritive a bread, and produce a saving of 4d. in the peck loaf; that a very able and laborious writer on the corn trade sup-

* A copy of this Report will be found in vol. 15, p. 1283.

poses, upon the best grounds, that there are 600,000 persons who eat wheaten bread in the cities of London and Westminster, and the places annexed; that each of those on an average consume the produce of a quarter of wheat in bread, amounting to 14 million peck loaves, which at a saving of 4*d.* each would make the sum of 240,000*l.* That supposing the poorer sort of people to form but two thirds of this number, this would amount to no less than an annual saving of 160,000*l.* to the laborious and industrious inhabitants of London and Westminster, and their vicinity: that taking up the above computation on a larger ground, the same author supposes, that all the people who eat wheaten bread in England, are at least 3,750,000, which according to the last mentioned premises, if the present scheme should be happily adopted, would take a burthen off those who are best able to bear it of 1,160,000*l.* annually. He next informed the House of a variety of curious and important lights, that had been gathered in the committee both from parole information, and the customs of ancient times, particularly the latter, by which it was discovered, that from the 21st of Edward 3, to the late king's reign, the manner of fixing the assize never varied; and even upon closer inspection they found that the former had been only copied from much more remote times, even so far back as the great Alfred, which was for a period of above 800 years. He concluded with moving, "That leave be given to bring in a Bill for better regulating the assize, and making of bread." Leave was accordingly given.

Motion for a Bill to prevent the Concealment of the Deaths of Bastard Children.] Feb. 3. Mr. Lockhart said:—Sir; I rise to bespeak the attention of the House upon a very important subject. It is respecting the situation of bastard children, which calls aloud for the humanity and interposition of this House. I had the honour of being one who was appointed with others last session to bring in a Bill for the more effectually punishing the concealing the death of bastard children; and though it met with a favourable reception here, it was rejected in the other House of Parliament. I am in hopes, Sir, when this matter becomes seriously considered, the Lords will give their assent; for at present the law is of little use, as the judge, the jury, and au-

ditors, notwithstanding the circumstances are plain, often acquit unfortunate women. Those acquittals, Sir, encourage women who unhappily are in this predicament; and the law, from its severity, is rendered ineffectual. If any lenity is to be shewn, let it be by the legislature. I hope, Sir, to see the Act made in the reign of James the 1st repealed: it is now indeed of little effect; and extraordinary as the wishing a repeal of a law rendered useless may appear to the House, I will explain myself. The judge frequently, from a motive of humanity, pardons those unfortunate women; and I would have parliament, however laudable it may be in the judges to dispense with the Act, repeal it, and have a punishment for the future, the certainty of which may deter women from destroying and afterwards concealing the deaths of their bastard children. I move, then, Sir, "That leave be given for bringing in a Bill to repeal an Act made in the 21st of James the 1st; and to prevent the concealment of the deaths of bastard children." Leave was granted.

Motion for Bills to amend the Act to prevent the Stealing of Dogs; and for the Preservation of Game.] Feb. 3. Mr. Richard Whitworth. Mr. Speaker, as the House has no great business of importance at present, I hope to be indulged for a few moments; and however trifling the occasion may appear to some gentlemen, I make no doubt but I shall merit the attention of this House. It is, Sir, respecting the Dog Act; an Act which disgraces your statutes, and prescribes a mode of punishment which I am certain is unconstitutional. How it was possible for this House to be betrayed into such a measure, I cannot conceive; and that you, Sir, should read this Bill three separate times! you! whose great knowledge in law enabled you to discover the glaring absurdities with which it is shamefully loaded, is to me a very extraordinary circumstance indeed? I can hardly prevail on myself to believe this Bill was ever the deliberate production of this House. Surely, Sir, it was impossible the wisdom of this House could ever assent to the whipping of probably an innocent man, and allow him liberty afterwards to appeal, and assert his innocence? It must certainly be a fraud upon the community? It cannot be our Bill! Let me see. [Here Mr. Whitworth read the printers' names.] However, Sir, joking aside, it carries very

evident marks that it was not passed in those days when the good old Onslow filled the chair; but the times since then are strangely altered! The difference is incredible. [Here the House attempted to murmur.] Excuse me, Sir, I am yet within order; I assert the truth; and if any gentleman will give himself the trouble to convince me of my mistake, I will most readily beg pardon of the House for having trespassed on their patience; but the cruelty and folly of this Bill is so conspicuous, that I cannot, as a member of parliament, help standing up in my place, and condemning it as equally injurious and disgraceful. If gentlemen will peruse it, I have no doubt but they will agree with me that it ought to be repealed. There are many other absurdities of less consequence in this Bill; the first of them that stares you in the face is the altering the mode of punishment for the second offence. A direct contradiction! And how is it possible for a magistrate, when an offender is brought before him, to know whether it is the first or second offence? Another one, no less extraordinary and unconstitutional, is the manner of conviction. It is upon an information only, and that information is not to be made upon oath. Have we any thing to equal this in our statutes? No! Shame upon such disgraceful proceedings; I am at a loss for words severe enough to censure them. Was it ever heard of before in this country, that one man shall be publicly whipped upon the mere *ipse dixit* of another? I am astonished how this House, distinguished for its wisdom, could be guilty of so notorious an error; and I will not rest till the numerous defects in this Bill are remedied, or the Bill, which is a disgrace to our statutes, repealed. As to the other clauses, they are of less import, and I will not trouble the House any farther. I therefore move, Sir, that leave be given for bringing in a Bill for rendering more effectual an Act passed in the 10th of the present reign, for preventing the stealing of dogs.

A Member. Sir, I rise up to say something upon this matter, as the hon. gentleman who had the orders of this House to bring in the Bill, is absent; and as I was concerned in another Bill of a similar nature, which the hon. gentleman will most likely also object to, I think it incumbent on me to vindicate the conduct of the hon. member who is absent. I have heard what the hon. gentleman who made the motion has said within and without doors,

and I confess the Bill is not, in my opinion, possessed of those absurdities and contradictions which he imagines it is. As to the mode of punishment, I think it perfectly clear and just. The man may appeal instantly, and when an appeal is once lodged, the punishment is immediately suspended. No man will decline appealing for four days, nor is it likely he will submit to be punished without appealing. However, Sir, to convince the hon. gentleman of my readiness to have our laws explicit and just, I heartily second the motion.

Mr. T. Townshend. Sir, I remember last session the same objections as have been started by the hon. gentleman who made the motion struck me, and I was desirous of moving for a repeal of the Bill altogether, but gentlemen who wished to preserve their dogs were averse to that; and when I attempted to move to have it explained and amended, the gentlemen who were concerned in the drawing of this Bill were so tenacious of their judgment and abilities, that I was moved out of the committee. I hope, however, the House will now take it into consideration; and, if the hon. gentleman is agreeable, I think the words 'to amend and explain' are much better than those of 'rendering more effectual.'

Mr. R. Whitworth. I have no objection at all to the words 'amend and explain,' they are most certainly better; but I never wish to lay two acts of parliament before a justice of the peace, as they will only perplex him: one he may understand, but two will confuse him. At some other time I will move for some alterations in the Game Act. The penalty in that is verbatim the same as in the Dog Act. [Here several members begged him to proceed, and finish with both at once.] I will not detain the House five minutes then, as one is exactly the same as the other. The defects are equal, and I think seriously deserving of amendment. I therefore move, Sir, that leave be given to bring in a Bill to amend and explain an Act for the better preservation of the Game in that part of Great Britain called England.

Leave was given to bring in the said Bills.

Motion for a Bill to prevent Foreigners being part Owners of British Ships.] Feb. 4. *Mr. Rose Fuller* moved the House, that an Act passed in the 12th of Charles 2, com-

monly called the Navigation Act, might be read, as well as another of the 7th and 8th of William 3, intituled an Act for preventing frauds and regulating abuses in the plantation trade; which being agreed to, he observed, that it was chiefly to this Act and this explanation, that we owed almost all the advantages we enjoyed as a great trading and commercial nation; that to this only we were indebted for our present national opulence and naval pre-eminence; that it was one of the prime provisions in that law, nay the grand basis of the rest, that no foreigner should have any share or property in any vessel coming from our settlements in North America, the West Indies, Asia, or Africa; for that it was specially provided that the produce of our colonies, in those several places, should be transported in British bottoms, that is, by vessels solely the property of natural born subjects; that however salutary this law might be, there were opportunities frequently taken, particularly of late, to employ it to the worst purposes, which was by foreigners purchasing shares of vessels employed in those respective trades, and refusing to part with them, unless an exorbitant advance, beyond the real value of those shares, was given them, by which means the other partners and owners were obliged to comply with those unjust demands, or submit to an enormous expence; that he should not take up the time of the House in multiplying instances of this extraordinary mode of fraud, but just advert to a case of which, if necessary, there was evidence ready to be given at the bar, which was of a foreigner who had two shares in a ship bound to Jamaica, and just ready to sail, who now actually insisted that he should have his own price for those shares, and had, to prevent a possibility of the contrary, given notice to the boards of Admiralty, Trade, and Customs; that the rest of the partners, resolving to put a stop to so fraudulent and pernicious a practice, had determined to persevere, though at the expence of at least five pounds a day, and apply to the legislature for redress; that, seeing the urgent necessity for the immediate interference of parliament in a matter of such a nature, he now moved, "That this House will, upon Tuesday next, resolve itself into a committee of the whole House, to consider of proper methods of preventing the evils arising from foreigners becoming part owners of ships trading to Asia, Africa,

and America." The reason, he said, for making the word 'part owners' part of the motion, was to avoid the hurting a very beneficial trade now carried on, which was building ships in America and the West Indies and disposing of them to foreigners here and elsewhere.

The *Speaker* remarked from the chair, that this was a new species of villainy, and one of the most extraordinary that had been ever devised, that a man should purchase a share in a vessel with the sole view of raising contributions on the rest of the owners. He added, that he hoped there was some method of coming at such atrocious offenders, they merited signal punishment, and he trusted they would accordingly receive it; at least, nothing in his power should be wanting to effect it.

Mr. *Dempster* objected to the necessity of the intended motion, as there were methods, he believed, might be pursued that would answer the same end as efficaciously, without increasing the number of our laws, or giving the legislature so much trouble.

Mr. *Grey Cowper* answered, that he much doubted whether there were any such; that the motion was a very proper one; that it might answer the intention as well in future as on the present occasion; and that if on enquiry it was found that the law had provided a sufficient remedy, the Bill might be then dropped.

Feb. 18. Mr. *Rose Fuller* moved, that the House should go into the said committee. He understood there was a standing order of the House of last year, which directed that no proposition for the altering of any of the laws relative to religion or trade should be examined but in a committee. This motion, he conceived, was therefore strictly within that order. He said there were several witnesses waiting at the door ready to be called in and examined, in order to prove to the House the grounds and necessity there were for the present application; and finished by observing, that the part he had taken in this matter proceeded by no means from a desire of fixing a stigma or throwing obloquy upon any man, but purely with an intention of procuring redress for an evil that called loudly for relief.

The House accordingly went into a committee (Mr. Alderman Oliver in the chair), when Mr. Moss, Mr. Alcock, Mr. Simon, &c. were examined at the bar. The substance of their evidence was, That

the ships Ipswich and Manning were both in the Jamaica trade, and river built: that the former is of 400 tons burthen, the latter 305 tons: that a M. Massou, a Frenchman, and not naturalized, purchased at a sale an eighth of the ship Ipswich, and three sixteenths of the Manning: that notice had been given at the Admiralty to prevent them getting Mediterranean passes, and at the Custom-house to prevent their sailing, as a foreigner was part owner: that the said M. Massou, as soon as this impediment was discovered, on being applied to, and desired to dispose of those shares for a reasonable compensation, absolutely refused, unless at an advance much beyond the market price, or their real value: that the latter of those vessels had been detained by that means in the river since the 20th of January, at a very great expence, and had lost her freight: that the other had been likewise detained, under a similar expence, since the 12th of the same month: and that the broker, who sold one of the shares to M. Massou, having informed him that such a purchase would answer no end, as he was precluded from deriving any benefit from it by the laws of this country, M. Massou answered, that he was fully apprized of that, but doubted not he should nevertheless profit by the transaction.

After these witnesses were examined, a person, who was master of a vessel in the same trade, in 1770, informed the House, that, being outward bound, he was lying at Gravesend, where he was prevented from proceeding on his voyage by an order from the Admiralty; the reason of which was a foreigner having been discovered to be part owner: that upon an application to him to sell his share, he refused; and that at length the rest of the owners were obliged to comply with the exorbitant demand of 150*l.* for his eighth, and a compliment of ten guineas to the attorney, though another eighth, which came to be disposed of at the same time by death, brought no more than 56*l.* 10*s.*

When the evidence was finished, Mr. Fuller moved, That leave be given to bring in a Bill for preventing abuses in the sale of shares in British built ships to foreigners; which was accordingly given.

Debate in the Commons on a Petition from the Captains in the Navy for an Addition to their Half Pay.] February 9. Lord Howe acquainted the House that he had a Petition to present from the Cap-

[VOL. XVII.]

tains of the Navy for an increase of their Half-pay.

The *Speaker* asked whether it had the consent of the crown.

Lord *North* rose and informed the House, that no matter, which was to affect the public revenue, could be agitated in that House, without the consent of the crown, given by some of its officers; that though that form had not been complied with, he did not rise to oppose the Petition being brought up; but he took this opportunity of informing such as might be equally interested on the same ground, that his consent in the present instance, by no means implied an approbation or promise of support to the measure; as he was, for the most cogent reasons, determined to oppose it through every stage.

Then the Petition was brought up and read; setting forth,

“That many of the Petitioners, having no other means of subsistence than their half-pay, are under the greatest difficulties to provide for their support; and that the provision made for them, and stiled their Half-pay, is rated on a reduced establishment, and does not, in their particular case, bear the proportion to their whole-pay; and that the petitioners have always been, and ever shall be, ready to testify, by their conduct, their unabated zeal for the public service; and solicit such relief, in their present necessities, by a suitable addition to their half-pay, or such other relief, as to the House shall seem meet.”

After the Petition had been read, there was a general silence in the House for a full minute, probably on account of the modest terms in which it was conceived, considering the rank and the high and notorious deserts of the petitioners. At length

Lord *Howe* rose, and stated to the House in the most moderate and guarded terms, the grounds on which the request of the petitioners was founded; he stated the manner of paying and providing for the captains of the navy, from the time of their first having a determined existence, as a military body, to the establishment by which their pay is now regulated: he gave an account of the provision made for this body of men in the infant state of the navy, particularly in the years 1667, 1673, and 1674; in the reign of king James as well as of king William; and of the regulations of 1693, and 1700, of that prince, by an order of council, and so on to the year 1715, when they were put on the

[2 Z]

footing they have continued ever since. By all which it was evident, that, till the latter period, they were always highly rewarded by posts of considerable profit, by particular gratifications, or by an half-pay double to what they now received; his lordship therefore moved, "That the Petition be referred to the consideration of a committee; and that they do examine the matter thereof, and report the same to the House."

Lord *North* informed the House, that from every sentiment of humanity and gratitude, he should be inclined to support the noble lord's motion; that he was well convinced of the merit, and indeed the claim, the petitioners had to public notice and support; that it was impossible to forget the great and conspicuous pretensions on which their claims were founded; that the important services they had rendered their country in contributing, with the rest of the military, towards the successes of the late war, were already sufficiently recorded; that, therefore, it must be extremely painful to him to object to any proposal intended for their benefit; but that it was not what he, or any other gentleman in that House, might feel on the present occasion which should direct them. It was not, he said, what ought to be done, but what could be done: the public finances should be considered, and the strength of the nation, on which the state of those finances so materially depend: that if the present application was granted, it would only open a door for more; that to grant one would be doing nothing, and granting all totally impracticable, for many reasons well known; and that, among some others, which it was needless to enumerate, he understood the ship-wrights intended to apply to that House for an increase of their wages; that therefore the impossibility of complying with all those applications, without involving the nation in consequences which could be only known to persons who had turned their attention to the subject, induced him to give a hearty negative to the present motion.

Captain *Constantine Phipps* next stood up, and said, that though he had the honour to belong to the corps who were petitioners at the bar, he had no personal motive to induce him to stand up in their behalf, further than the propriety of the request, and the necessity there was for complying with it: that he had neither their merit to establish any claim on, nor

their wants to plead; but gave his opinion as one of the representative body, and at the same time as a person well acquainted both with the true deserts and real wants of those gentlemen who now prayed to be relieved: that he must confess himself to be sincerely touched with their present distressed situation: that when he considered the several instances in which men of the highest reputation in their profession were struggling in the most difficult situations, under want, sickness, or confirmed disorders, contracted in a long and meritorious service, it was matter of the most painful recollection to him—men, whose very names were terrible to our enemies, whose exploits he was a frequent witness to, and to whom he looked up as the great patterns of imitation; when such men, he said, were starving on the trifling pittance of 70*l.* a year, perhaps surrounded with a numerous family, or sinking under pain and infirmities, what heart could be so callous as to refuse a relief which good policy must approve, and gratitude and justice so evidently required! The expence of the proposed addition to their pay, he said, would not amount to above five or six thousand pounds per annum; and shall we be told at the opening of the budget, that such a sum will affect the finances of a great and opulent nation at the end of a ten years glorious peace, when France, immediately after her defeats, her distresses, and public insolvency, had the good policy, and it seems the ability too, to make a provision for her navy captains? That she has done so, said he, I have been informed by an honourable gentleman, high in his profession, whose illness prevents his presence here this day, (Sir Charles Saunders) but who feels no pain so sensibly as not being able to attend according to his most earnest wishes, in order to give testimony of both the propriety and necessity of the present proposed measure.

Here the hon. captain read two letters from gentlemen high in the estimation of the public as naval commanders, but who were languishing in some of the situations he had described. He then proceeded:

And shall we be told by the best authority, that the public finances are in such a situation as not to admit of the payment of an additional 6,000*l.*, in discharge of so just and necessary a claim, while no later than last session the committee of supply was open to demands of larger sums, though perhaps not designed for better

purposes? I shall not take up the time of the House by now enumerating them, further than to put it in mind of the matters I advert to: one gentleman had a comfortable sum of money for freshening salt water; another was amply rewarded by the lovers of *virtù*, I think to the amount of 8,000*l*. Let *virtù* have its reward; perhaps it was well bestowed; I am not against it; all I would wish is, that let people act ever so differently, they would at least preserve some appearance of consistency in their conduct. He concluded with remarking, that he hardly expected that the noble lord who spoke last would himself have announced the petition of the ship-wrights, and that, let the fate of the present one be what it might, he was glad to find they had found so powerful an advocate.

Lord North replied, that he believed the hon. gentleman misunderstood him, as he could not believe he meant to misrepresent what he said relative to the ship-wrights; that it was true he was acquainted that such an application was intended, and it was equally true, that he informed them he intended to oppose it, and that he mentioned it only as a proof that granting the present request would be only laying a foundation for others, which, in the nature of things, could not be complied with.

Colonel Barré said, that it signified very little who did or did not apply in the same manner, the present question being properly, whether the request now made was in itself a just and reasonable one. A particular stress, he said, was laid both within and without doors upon the impropriety of the present measure, in point of precedent; but it deserved very little attention. The fears suggested of the claims of the military, as distinguished from the naval service, were much dwelt on; but for his part, though he belonged to the former, and had had the honour of spending the greater part of his life among them, he could not bring himself to look upon their pretensions in an equal light: he was well acquainted with the merits on which the claims of the majority of those who constituted the half-pay list were founded: he well remembered the manner in which the new levies, towards the conclusion of the late war, were made, as he had the honour himself to be appointed to the command of one of those battalions, and he likewise well knew how the generality of the subaltern officers obtained their commissions. He said, that in one

of the companies belonging to that corps, a butcher was so lucky, or rather so unlucky, as to procure a commission: this fellow, preserving his original manners, used to get drunk with the private men and drummers, which obliged him at length to dismiss him, not however before his party-coloured companions had several times heartily threshed him. What was the consequence? says he. Why, I wrote to Mr. Charles Townshend, who then happened to preside at the War-office, that the unfortunate wretch had mistaken his profession, and begged that he might be reimbursed what his commission cost him, which was 150 guineas, having paid so much to the captain of the independent company for it, which Mr. Townshend was pleased to comply with. He said, that instances of this nature were frequent and well known; that he only selected one that came within his own immediate knowledge, and that subaltern commissions were at that time only looked upon as mere purchases of annuities. And shall, says he, a body of men, such as I have described, be put in competition with gentlemen who have devoted their whole life to the service? Men of family, of tried courage, of skill in their profession, who have protected our commerce, and filled our harbours with the ships and property of our enemies? He said, that this country did not contain a more useful or respectable body than the captains of the navy; that the case of those on half-pay was well known, and that he doubted much whether the situation of those who were in commission was near so desirable as one would imagine: for, if their emoluments were considerable, the necessary expences attending their rank and station kept pace with their income. He said, they did honour to their rank and station by their manner of living, there being no character in a foreign country more respected than the captain of a British man of war, of which the frequent visits paid them by the princes of the blood, and other great personages, whenever they happened to be stationed in the vicinity of a royal residence, was a full proof. But, alas! if any of those royal or noble strangers, says he, were, on their arrival in this country, to enquire for many of the celebrated names, who have had the honour to entertain them with so much splendor and magnificence, where, in all probability, would they be found?—Why, perhaps, lurking in some obscure hole or corner in London, or bu-

ried in oblivion in the country, there to lie totally neglected and forgotten.

Sir *George Savile* rose to give his hearty concurrence to the motion; because, though it was a demand on the purses of his constituents, he was thoroughly satisfied they would cheerfully grant a little where so much was evidently due. He was well convinced how much the public in general was indebted to the petitioners, as well as how shamefully they had been neglected: as an instance of the latter, he had been that morning to visit, in one of the most obscure corners of the borough of Southwark, a gentleman equally distinguished for his military character and private virtues, who, surrounded by a wife and eight children, must suffer all the heartfelt distress of a person genteelly starving, and who had devoted the greater part of his life to the service of his country, with honour and high reputation. He remarked, that to shut the doors of this House, and lock the coffers of the Treasury against such men, was now deemed meritorious; those doors and those coffers that were hospitably open to the lovers of *virtù* for a much larger claim than was now made: that to point out the various instances in which the public money had been thrown away would be at present a nugatory and invidious task: that there was one, however, which he could not well avoid mentioning, which was 3,000*l.* per annum paid for pens and ink for the use of the House, though a pen could not be had that a person could sign his name with. He said, he now heard with astonishment, for the first time, economy recommended from the Treasury bench, and concluded by hoping, that the next proof of economical reduction would be a saving of candles, by which means the House would be left to debate in the dark.

Lord *North* replied to these charges, that as to the sum granted to the lovers of *virtù*, he heard it objected to at the time but by one gentleman, who, he believed, was on the opposite bench, though he could not trust to his sight; that, considering the love of *virtù*, which then prevailed in the House, it was not surprising that the sum now adverted to was cheerfully granted: it was rather strange, that that spirit could be restrained: that, for his part, he was one amongst a few others who attempted to limit it within reasonable bounds, and therefore ventured to ascribe some part of the merit to himself,

that *virtù* was not more amply rewarded. As to the particular merit, and particular wants of many of the petitioners, his lordship said, he had not the least reason to doubt of their being well founded; nevertheless he conceived, that quoting and referring to them on the present occasion was totally improper. What do they prove? says he. Why, that many of those gentlemen would be proper objects of our bounty. Is, then, an establishment to take place, under a general description, in order to take in and relieve a few suffering individuals peculiarly circumstanced? No; for his part, though no man in the House would be readier to serve and relieve indigent merit than himself, he should be very sorry to increase establishments that were already known to be so heavy as scarcely to be borne: that whatever plausible pretexts (which are seldom wanting on such occasions) might be offered in order to induce him to be of another opinion, his duty in the post he now filled would never admit him to give way to them. He said, that great stress had been likewise laid on the smallness of the sum; but that consideration could by no means weigh with him. He was well apprized that this was but a forerunner to many applications of a like nature. As these, for the reasons before assigned, could not possibly be gratified without incurring the most dangerous and perhaps fatal consequences, he thought it highly incumbent on him to preclude all such ill-founded expectations, by giving a negative to the present motion.

Sir *Gilbert Elliot* said, that he had the honour to preside at the head of the second naval department in the kingdom; that however well convinced the noble lord, and many others in administration, might be of the impropriety of giving way to the present application, he nevertheless thought, that the rank and acknowledged services of the petitioners at least entitled them to a fair and candid hearing; that this was seldom denied in affairs of infinitely less importance; that many circumstances might come out in an enquiry of this nature, which might be well worth the attention of the House; that putting an abrupt negative on the motion in the first instance, though it might be well justified on extrinsic considerations, would have a very ungracious appearance; that he would therefore modify his noble friend's motion, if the House pleased, by proposing that the Petition might lie on

the table, and the House in the mean time consider of the allegations which it contained; that if they were found not to be sufficiently cogent, or that there were reasons of a superior nature which might prevent a compliance, it might be dismissed. Such a conduct, he added, would have both a decent and equitable appearance, which, upon every ground of parliamentary proceeding, considering the rank of the petitioners, must be denied to what was contended for by the opposers of the motion. He further said, that if this proposal was agreed to, certain circumstances would deserve to be minutely and carefully attended to.—Here sir Gilbert entered into an historical detail of the public provisions made for the navy, both in times of non-employment and actual service, from the reign of Henry 8, when a naval force was first regularly established, and yards and docks built, to that of king William, and concluded with stating a few curious and important facts which happened at the latter period. In the year 1692, the pay of a captain in the navy, he said, was 27*s.* per day, with an allowance of twelve servants at 6*d.* per day each, which made the whole 33*s.*; the year after a different arrangement took place, and the pay was raised to 30*s.*, and the allowance for servants struck off. In both these instances the half-pay was 15*s.* In 1699, administration being embarrassed, and parliament, after the peace of Ryswick, insisting upon almost a total reduction of the military, nay even of his majesty's Dutch guards, the ministers hit upon the expedient of making a saving in the naval department. Propositions were accordingly made to and adopted by the House of Commons, that the full pay of the navy captains should be reduced from 30 to 20*s.* with which likewise the half-pay list was to conform; but though this transaction stands on the Journals of the House in that light, the captains on full pay were actual gainers by it; for instead of the bare 30*s.* they were allowed 20*s.* actual pay, with an allowance of 31 servants, which, in the whole, amounted to 35*s.* 6*d.* per day. Thus parliament was imposed on, and the half-pay list, for the first time, reduced, and a foundation in part laid for the hardships they now suffer. Sir Gilbert then moved, that the Petition might lie on the table, to be taken under consideration on some future day.

Mr. Charles Fox then rose, and acquainted the House, that the present pro-

positions might be taken up on a very narrow ground, the question being, whether an establishment, which was to lay a fresh burden on the public, already sufficiently, though necessarily loaded, should be made, in order to remove the distresses of some particular individuals. He said, that for his part, he always looked upon national establishments in entirely another light; that such institutions were intended for the support and maintenance of particular bodies of men under general descriptions: that the wants or claims of a few were the most absurd reasons that could be possibly devised for such a dangerous innovation; that until the friends of the motion could prove, that the claims of every man who was to be benefited by this motion, or at least a majority of them, might be supported on the same grounds which were maintained in the few instances now quoted, every attempt of that nature, he hoped, would be treated as it deserved. If private distresses are proper objects of parliamentary attention, said he, the doors of the House of Commons had better be at once thrown open; and I will venture to prophesy, we shall have little else to do but to attend to them. There are some already prepared, and others were only waiting for the event of the present application.—The hon. gentleman who spoke last, seems to have a very high esteem for the petitioners, and would have a particular attention paid to their rank and services. I applaud the principle of the hon. gentleman; but I fear, what he intends as a favour and a mark of respect, would be an act of the greatest cruelty. He would have us consider the petition; he would have us buoy them up with expectations of what will not, what cannot, come to pass; no, what we must do in a week or a fortnight hence, let us from mercy do now, by which means we shall at once put them out of a state of suspense, preclude a deal of anxiety they may otherwise suffer by a disappointment of vain hopes, and save the House much trouble. The hon. gentleman has likewise dwelt largely on an imposition put on the House of Commons in the year 1699, by the then administration; for my part, I cannot conceive how the hon. gentleman can from even his own principles, and the facts on which they are founded, draw any such conclusion. Here the full pay is reduced from 30 to 20*s.* per day; if this be a trick, I must confess it is beyond my poor comprehension to perceive it in that light.

Sir *William Meredith* spoke chiefly in reply to lord North. He remarked, that his lordship insisted much that the petitioners were by no means, from their peculiar circumstances, proper objects of relief by a national establishment, but at the same time were deserving of public bounty. He insisted, that among the numerous opportunities which occurred, there never had been a single instance in which it had been exercised. That within his own knowledge, many in the worst situation and of the greatest merit had applied; that there were others whose distresses were no secret, but whose modesty prevented them from making them known; that nevertheless he was confident not one of them experienced the public bounty, which he would beg leave to say, was now artfully held out to them; that therefore this was but a stale trick to defeat the petition. He observed in the course of the debate, that the application of other bodies of men was assigned as a reason for refusing the present request, particularly the subalterns in the army. He was astonished to hear such an absurdity fall from the lips of any man. Surely no person will pretend to assert, says he, that the lieutenants of the army are to be held in the same estimation as the navy captains, or that the former are to be put on a footing with those who hold the rank of colonels? If indeed we were informed that the field officers intended to petition for an increase of half-pay, there would be some foundation for such an objection; but till that event shall happen, let us not be amused with reasoning on facts which are not pretended even to exist, or with strained comparisons and deductions which cannot be just, because the application of them is totally mistaken.

Lord North replied, that he never refused, upon any proper application, to exert himself as far as in his power, in behalf of indigent merit; he said, that he heard from every side of the House of the generosity of the French king towards his naval officers, but he begged leave to say, that no officers in Europe, in the same service, and of the same rank, were so amply provided for, as those of our own country. What has been in the beginning, says he, either absolutely denied, or pretended to be supported only by base suggestions, or vague suspicions, is now confirmed to me, by persons whose authority and information I can by no means doubt; that is the intentions of the half pay officers of the

army to petition for an increase of their pay. One hon. gentleman has attempted to elude all the force of the objection, by lowering their pretensions to such a favour: another has spoken out plainer, and defended the propriety of such an application: these proofs alone would therefore be sufficient reason with me to oppose the present motion, if there were no other besides. I heartily concur in the sentiments of my hon. friend near me, (Mr. C. Fox) that the idea of a national establishment, and a bounty to certain persons, under peculiar circumstances of distress, are totally repugnant and incompatible with each other: as to the hon. gentleman, who has proposed changing the original motion, added he, I am neither fully satisfied of the certainty of the facts he has stated, nor why one exceptionable mode of proceeding should be adopted instead of another: I do not know that the administration of 1699 played any trick upon the House of Commons, or that if they did, why an enquiry into the transaction should constitute any part of our duty; if we cannot comply with the prayer of the petition, such an enquiry would answer no purpose; that we cannot, without involving ourselves in consequences most carefully to be avoided, I again repeat; and what feeling heart, since this is the case, would wish to add insult to distress?

Mr. Thomas Townshend:

I flattered myself, Sir, that I should have seen three gentlemen here this day of the first reputation in their profession; I concluded that this assembly would have been honoured with the presence of Hawke, Saunders, and Keppel, and that in them the unfortunate petitioners would have found most powerful, persuasive, and able advocates. Nothing, I am certain, but a disability, from illness, to attend, would have prevented them from performing so material and interesting a part of their duty. The first I hear is indisposed at his country seat, the last is at Bath, and the other gentleman I had the honour to converse with this morning, being confined by the gout to his room, when he put this paper into my hands [Here he read the copy of an Order under the French king's hand, for encreasing the stipends of his naval captains, and containing the reasons which induced him thereto.] That this was not a bare temporary testimony of his regard for so respectable a corps, I am well informed from the same honourable

authority; that, in consequence of this order, a provision of 3,000 livres, equal to about 135*l*. English money, was established for such of his naval captains as shall not be in actual service. Much has been said by the noble lord on the opposite bench, concerning the danger of the precedent, should the proposed addition take place. What, then, are we indiscriminately to shut our doors against applications from all quarters, and on all accounts? If persons, or whole bodies of men, whose claims are unquestionable, upon the most cogent and public ground, come to solicit our assistance, are we to refuse them any relief, or even a hearing, because others of inferior pretensions, or of less merit, may follow them? But, say the opposers of the motion, we are sufficiently convinced of the justice of the claim, we acknowledge the deserts of the petitioners; but let our inclinations to serve them be ever so sincere, we have it not in our power. Away with such trifling evasions! Is a sum of 5,000*l*. of such consequence? No! act like men; the justice of the grant is not denied; the sum demanded is small, it will be time enough to plead the impropriety of the demand, and the inability to comply with it, when the contingency happens.

Mr. Welbore Ellis spoke on the same side with lord North; and Mr. Mackworth, lord John Cavendish, Mr. Boscawen and Mr. Hawke, both sons of the admirals, and Mr. Dowdeswell, spoke on the other side. The House then divided. The Yeas went forth:

Tellers.

YEAS	{ Lord Howe - - }	154
	{ Captain Phipps - - }	
NOES	{ Lord Lisburne - - }	45
	{ Mr. Cooper - - - }	

So it was resolved in the affirmative, and a Committee was appointed.

REPORT OF THE COMMONS' COMMITTEE RELATIVE TO THE PAY OF CAPTAINS OF THE NAVY.] March 5. Lord Howe reported from the Committee, to whom the Petition of the captains of his Majesty's navy, was referred, That the Committee had examined the matter of the said petition; and had directed him to report the same, as it appeared to them, to the House; and he read the Report in his place; which was as follows:

Your Committee find, that by the deficiency of the appointments and provision made in that respect, many of the junior

captains, who have no means of subsistence except their half pay, are under the greatest difficulties to provide for their support when out of employment.

That the twenty senior captains of the navy, intitled to half pay, now receive 10*s*. each; the next thirty, 8*s*.; the next forty, 6*s*.; the next fifty, 5*s*.; and all the junior captains, without distinction, only 4*s*. each a day. On which allowance of 4*s*. the said junior captains may probably remain fifteen, or a great number of years, before they obtain a place on the 5*s*. list; whilst their greatly inferior officers, the captains of marines, enjoy a half pay of 5*s*. a day, from the time they are advanced to that rank in the same profession.

That the half pay to the captains of the navy, being regulated by that part only of their sea pay, called their personal pay, is not a moiety of the whole pay provided for them when in actual service.

That his majesty king Charles the 2nd, did, in 1674, direct a provision of half pay, the first time granted to the captains of the navy, to be made for those who had commanded ships of the first and second rate in time of peace, "equal to the value of half the pay usually allowed by his majesty in time of service to commanders and captains of like quality."

That king James the 2nd, making farther alterations in the establishment of the navy, did, in 1686, order an allowance of table money to be made, in addition, and nearly equal, to the then pay of the captains in the different classes, according to the rate of the ships they respectively commanded. And though he promised them other encouragement, it does not appear to your committee that he made any provision for their support on shore; but that, in consequence of such allowance of table money, he cancelled several perquisites they before enjoyed.

That the allowance of table money ending with the reign of that prince, his successor king William the 3d, was pleased, in the year 1693, to establish, in place thereof, an allowance of double pay to captains of ships of the first, second, third, fourth, fifth, and sixth, rates, whilst on service; and half the amount of such pay to captains of first, second, third, fourth, and fifth rates, in order (as the establishment expresses) "for their more comfortable support and maintenance whilst on shore."

That the fund provided for the establishment of such increased sea and half

pay ending with the war, his said majesty king William was pleased to order another scheme of pay for the officers of the fleet to be prepared; and the same being adopted by this House, in the subsequent year 1700, in part of the plan for the reduction of the naval expences, then under consideration, the said double pay, and encreased half pay, were reduced one third in amount to those officers respectively: whereby it appears to your committee, that, notwithstanding the assurances given for the encouragement of those officers during the war, on the supposed certain enjoyment of an adequate provision for their support in time of peace, they were not only disappointed thereof, to save an inconsiderable expence in the estimate of the half pay, as stated in your Journals; but likewise, that in place of the allowance of half pay, provided for 152 captains in the several classes, as before mentioned, comprehending nearly the whole number of captains then on the lists, the establishment of half pay last instituted was confined to the 50 senior captains only, in total disregard of the royal declaration and engagements.

That in 1715 a farther regulation of the half pay was made, on the plan of the sea pay established in 1700, and the benefit of half pay thereby extended to all the captains of the navy without distinction, who should be, from time to time, out of employment. In which state the half pay of the captains of the navy hath continued, with little or no variation unto this time.

As soon as the Report was read,

Lord *Howe* remarked, that at the time that the regulation of 1700 took place, there was a provision made for 150 naval captains, which was very near the whole number then on the list; that by the one of 1715, which in the points now to be considered, was formed on the same plan, the junior captains were very considerable losers, as the diminution of the personal pay did not keep pace with the disadvantages arising in other respects, for though it was true that the establishment of 1700 caused a decrease of pay proportionably to the rate of the ship, yet the captains of the fifth and sixth rates suffered much more than the senior ones; for instance, they had an allowance of servants in proportion to the number of men they commanded, at the rate of four servants to every hundred men; by this means, a captain of a first or second rate might have

had an increase made to his pay of 12, 14, or 16s. per day, in lieu of the reduction of 1700, while the captain of the fifth or sixth rate was obliged to put up with a compensation of perhaps the fourth or fifth part of that allowance. His lordship then moved, That an addition of 2s. per day be made to the full pay of captains of the navy serving in fifth and sixth rates, according to the tenor of the Report.

Lord *North* seconded the motion. He said that when the Petition was first brought up, he opposed it chiefly on the idea that it would be a precedent for applications of a similar nature; that the event had proved he was not mistaken; that, however, as the House thought proper to differ from him, he cheerfully acquiesced in its opinion; that he thought the present Report, though it might perhaps be not quite so regular as he could wish, having stated matters not properly under the consideration of the committee, was, in his opinion, a very proper one; for, said he, by the addition we are now going to make to the half-pay of the junior captains, they will receive about 110l. per ann. though those serving in fifth and sixth rates and commanding sloops when on full pay, will receive no more than 200l. per ann. which on account of the trifling difference, and the necessary expences attending actual service, may be the means of preventing many offering themselves when they may be much wanted. He therefore concluded with wishing, that some method might be devised for obviating the irregularity of the Report, as the expence incurred by it would not amount to more than 7,000l. per ann. and was become now evidently necessary to complete the original intention, that of putting the service upon a rational and equitable footing.

Captain *Phipps* said that this proposition would totally defeat, instead of forward the intentions of the House; that whatever the distresses of the half-pay navy captains might be, they felt much more pleasure from the estimation they found themselves held by the constituent body of the nation and the people in general, than from any advantage or immediate conveniency that could accrue to them from an encrease of pay; that therefore, on the terms now proposed, he was confident they would much sooner forego every emolument they were about to receive by the preceding part of the Report, than receive it clogged, as it must be, by

the latter part, as explained by the noble lord who spoke last, and concluded by saying he believed there were none of that corps, of which he had the honour to be one, who were capable of reasoning and acting on the principles pointed out by his lordship; and if there were, he would be bold to say, that body would gladly see such persons stigmatized in a manner suitable to their demerits, in order that they should not suffer in the eyes of the public for the ingratitude or improper conduct of a few individuals.

Sir *Charles Saunders* got up to set lord North right relative to the disadvantages his lordship supposed the commanders of sloops suffered on account of the smallness of their pay, and of the small difference between that and the half pay as now proposed, observing the profits by the victualling, as there were no pursers admitted aboard sloops.

Lord North rose to exculpate himself from any intention of reflecting on the gentlemen on the half-pay list, and said, that what he advanced related chiefly to times of peace, when there were no opportunities of gaining either honour, glory, or profit, and begged leave to adhere to his former opinion, that, under that circumstance, gentlemen who were settled would not be very willing to put themselves to a certain expence for a trifling advance of pay.

Mr. *Pulteney* said, that on the former debate, though he divided in favour of the Petition the day it was first presented, he nevertheless coincided strongly in the reasons offered by the noble lord against it, and thought nothing but necessity could justify the measure; that he could not avoid being surprized to perceive his lordship's sentiments so unaccountably altered. Here, a small sum was desired for a body of men confessed to be in the greatest distress, which was strongly opposed, while the same persons proposed to burthen the nation with an equal expence, where no such distress was pretended, or application of any kind made. For his part, though he thought the present proposition was a wise one, and should be agreed to, he should strenuously oppose it, considering the thinness of the House, and that we had no proper notice of any such intention.

Lord Howe then proposed to withdraw his motion, which was agreed to; after which the House came to this Resolution: "That an humble Address be presented to

his Majesty, that he will be graciously pleased to take into his consideration the deficiency of the allowance to several of the junior captains and commanders in his Majesty's navy, for their support when out of employment; and that he will direct such addition to be made thereto, proportioned to the present establishment for the senior captains, over and above the provision made for the year 1773, as his Majesty in his great wisdom shall think fit; and to assure his Majesty, that this House will make good such expence as shall be incurred on that account."

Debate in the Commons on the Papers relating to the Expedition against the Caribbs, and the Sale of Lands in St. Vincent's.] Feb. 10. The order of the day being read, the Clerk proceeded to read the papers from the Secretary of State's office, relative to the Expedition against St. Vincent's, (See p. 575) when Mr. T. Townshend moved, that lieut. generals Wooten and Trapaud be called in.

Mr. T. Townshend. Has lieut. general Wooten received any account from his regiment?

Lt. Gen. Wooten. No, Sir.

Mr. T. Townshend. I beg to know when you received the last accounts from your regiment, and what date?

Gen. Trapaud. The 17th Dec. I received the last, and the date was the 14th November.

Mr. T. Townshend. How was your regiment?

Gen. Trapaud. Very unhealthy, indeed; and by the last accounts an officer and a party were drowned going on shore in a boat.

Mr. T. Townshend. I beg to know, Sir, if they were employed on the expedition?

Gen. Trapaud. They were then on that duty.

Mr. T. Townshend. If gen. Trapaud has received any letter upon this business, I beg, if the House has no objections, it may be read.

Gen. Trapaud read part of a letter, dated the 14th of November. "The mortality among the men is very great, owing to the heavy and continual rains which we have at this season. The poor Caribbs have been ill used. They act with great caution, and the woods are so thick, that they knock our men down, with the greatest security to themselves, as it is impossible we can see them. We have only been

able to penetrate four miles into the country. God knows how this pretty expedition will end: all we hope for is, that the promoters and contrivers of it will be brought to a speedy and severe account." [Ordered to withdraw.]

Mr. *T. Townshend*. Sir, I beg to be informed, if government has received any accounts of this date, or a later?

Lord *North*. No, Sir, they have not, I assure you.

Mr. *T. Townshend*. It is very extraordinary, Sir, that private gentlemen should receive letters, and not the King's officers. There are letters in town, dated the 24th of Nov. last, from the fleet.

Lord *North*. It is very extraordinary, I confess, and what I cannot account for. To be certain, I sent before I came here to the Secretary of State's office, and I received this note: "There is not a scrap of paper in this office of a later date from St. Vincent's, than the 9th October, and which was received here the 17th November."

Mr. *T. Townshend*. Extraordinary, indeed! However, I hope, if any fresh matter should arrive between this and Friday, that the noble lord will order them to be laid before the House, and not give me the trouble of fishing for them, as I have done throughout.

Feb. 12. Mr. *T. Townshend*. Sir, I rise up not to put off this business, nor to cause any unnecessary delay. I wish to get to the bottom of the affair as soon as possible: but I think we should proceed with great deliberation, as it is really a serious and important transaction. There are some fresh papers delivered to the House, which, in my opinion, require a day or two to examine. I am surprized that government should be so backward in furnishing us with materials, when the House has particularly ordered every intelligence relative to this expedition to be laid upon the table. That order has been complied with reluctantly; and I assert, for my part, that administration, knowing what we wanted, should have supplied us. I remember when a copy of the letter from the governor of Martinique was enquired after, we were told it should be obtained. That letter, Sir, is of consequence, and I request it may be laid on the table.

Colonel *Barré*. I shall only add to what my hon. friend has said, that I wish this matter may be speedily finished. We

are groping our way in the dark, and I ask for time. The affair is yet incomplete; but if any gentleman will get up, and say he is satisfied, and ready to proceed, that we have had sufficient evidence to go on, I will instantly sit down; but I speak it open, fairly, and honestly, I would rather have administration acquit themselves—I wish they may—than the nation be dishonoured. This affair has engaged the attention of all Europe; let us proceed regularly, and take time. I wish this matter may be put off for a future day, because I think we shall have more evidence and intelligence. In eight days a ship must arrive, perhaps in as many hours.

Lord *North*. Sir, I cannot sit patiently and hear administration accused of neglect, or a want of candour. Every paper you have asked for you have had; and we have, of our own accord, given you papers not within the description. I have not hurried this business, but when time has been demanded, I gave my assent. I am ready now to proceed; yet if the hon. gentleman is desirous of having a distant day, I agree to that also; but wish he would let us know what our crime is, that we may be prepared for our defence. A copy of the commitment is allowed to every criminal; I do not claim it, but appeal to the candour of the hon. gentleman. If we can justify ourselves, we must do it in the commencement of the affair, not in the event; and I am persuaded we shall be able to acquit ourselves throughout.

Colonel *Barré*. I thank the noble lord, Sir, for the word. I should not have called him 'criminal;' but since he has taken it to himself, I shall use it. He asks for a copy of the accusation? I ask what right he has to it? None! two years are not elapsed, since two gentlemen on this side of the House received no such indulgence from the noble lord. His designs against them are kept a profound secret; and after such treatment, surely, Sir, the noble lord has no right to expect it.

Mr. *T. Townshend*. Sir, the noble lord cannot suppose I load my pockets with motions, and mean to tell him what they are before I make them; and since the noble lord expects he should be acquainted with the accusation, that he may be prepared for his defence, I ask, and I have a right to be informed, whether he shewed that indulgence to Mr. Wilkes? Did he inform him of every proceeding he in-

tended to carry on? After, then, his treatment, and notorious want of candour to that gentleman, has he a right to expect it here? That justice he has shewn to others, shall be shewn to him. However, Sir, that this business may go on, I am willing the evidences should be examined; but I request we may come to no decision this day, for one half of the gentlemen, by the time the evidence will be finished, will be exhausted; and the other half returning from dinner, will be noisy at the bar, and clamorous for the question; I therefore expect, Sir, if we do proceed, that the debate on so important a matter may be put off till another day.

Lord North. Sir, I own I have no right to expect any such indulgence; I did not claim it; and as to Mr. Wilkes, an unfortunate affair confined him to his house, and he could not attend here. He was summoned, and the affair adjourned from time to time, till you were informed he had quitted the kingdom, and was not likely to return.

Lieut. Gov. Gore was then ordered to the bar. He was asked what time he left the Grenades, and how long he had been there? He replied, in 1765 he returned to England, and had been in the Grenades six months. He was asked, whether he had ever heard of any difference between the Caribbs and planters, whether the former behaved well and peaceably? He answered, no quarrels had happened, or were at that time likely to happen, or he must certainly have heard of them; that they always behaved well, and that he had never heard of any jealousies subsisting. Being asked if the climate was not very sickly, and if some planters had not expressed a desire of having some of the Caribb lands, he replied in the affirmative to both. On being asked the names of these planters, he had forgotten them all, excepting one Alexander.

Lieut. Col. Fletcher was asked, what time he left the island of St. Vincent, how long he remained there, and what the disposition of the Caribbs then was? He answered, that he left the island in 1767, and had been there 3 years; that the Caribbs were very peaceable, nor had he heard of any difference, which he suspected he must have done as commanding officer. He was asked with respect to the climate, and what he thought must be the consequence of an expedition at the worst season of the year? He replied, that the climate was exceedingly unhealthy; that

122 of the men had died the first year, and that 309 had expired in the three years he was there; that the barracks, barely sufficient to accommodate one regiment, were finished just as he was leaving the place, and the troops had marched into them. On being asked how the Caribbs appeared affected to our government? he answered, very well; that he dined with some of their chiefs at governor Melville's table, and they behaved themselves very well; and that governor Melville had since said, the gentlest means were the best to induce them to entertain favourable sentiments of the English. He was then asked, what time of the year was the most unhealthy? He replied, from June to Christmas, which was the rainy season. He was next asked, whether an expedition against the Caribbs at that time of the year would not be very fatal to the men? He answered, most certainly.

Capt. Farquhar was asked, as he had, in the absence of lieut. col. Fletcher, on the death of the lieutenant governor, been chosen to succeed him by the gentlemen of the island, to whom governor Melville had entirely left it, whether he ever discovered any disposition to quarrel in the Caribbs? He answered, no; that, on the contrary, they used frequently to come to his quarters with pigeons and fish to sell, and always behaved themselves exceedingly well.

Captain Ross said, the Caribbs were at first very peaceable; but a plan being formed to survey their lands, they grew turbulent and suspicious, and a guard of forty men, commanded by a serjeant, who were ordered to protect the surveyors, were made prisoners by them. He said, that Mr. Alexander, and the rest of the council, having requested the command of the troops to rescue their comrades, the whole number, consisting of 120 effective men, marched within two miles of their main body: and that they voluntarily gave up the forty men, without any hurt having been offered them, on condition that the surveyors should desist, and the inroads into their country be put a stop to. He said, the Caribbs were not to be depended on; that they were by nature thieves; that the climate was unhealthy; that if the troops, at first landing, were exposed to the inclemency of the air, it would be immediate death to one half of them; that tents were of no use; that the proper coverings were huts, which the negroes, who attended with

provisions, would raise for the troops in a few days; that he believed they might be reduced, but not without loss.

Mr. *Sharp*, speaker of the assembly of St. Vincent, said the Caribbs were a faithless people; that while they continued in the island, neither the lives nor properties of his Majesty's subjects could be secure; that murders and robberies were frequent; that his own negroes had been murdered in the field; and that no inducements were wanting to encourage negroes to desert; that the Caribbs were addicted to much drinking, and in their debaucheries were cruel, and abandoned to every species of vice. Being asked by col. Barré, what their vices were? He said they were indeed but few, because their ideas were but few. They love a plurality of women, and take pleasure in nothing so much as making themselves beasts by drinking. Do not they love liberty and property? said col. Barré. The answer was, Yes. Then, said the colonel, if they love women and wine, liberty and property, where is the difference, except in the colour, between them and Englishmen? [The House laughed out, and the Speaker for a moment lost his presence of mind.] He made no answer. Being asked, he acknowledged himself the adviser of the project for removing these people from the island, and wished they might be sent to Guinea, to St. Matthew, or to any other neutral island, where they might be provided for, and live in their own way: gave it as his opinion, that either they or his Majesty's subjects must quit the island; for that it was impossible for the latter to live in safety, if the former were suffered to live independent. The Committee adjourned to the 15th.

Feb. 15. Mr. *Campbell*, a planter in Grenada, was called to the bar, to give evidence relative to what he knew concerning the Caribbs. He informed the House, that he had had many conversations with count d'Henri, the French governor at Martinico, who told him, that the Caribbs made several propositions to him; the two principal ones were, that he might assist them to cut off the English planters and resident proprietors: and that he should, when that was effected, in the name of the king his master, once more take that island under his protection: that the count, abhorring their baseness and designed cruelty, had given him this previous information, in order to put

his brother subjects on their guard; and that he had seen a letter to the above purport from the count to general Melville. —He was severally interrogated on the following points: Whether he ever heard general Melville say, that the Caribbs, with a very little address, might be managed, and made very useful subjects; or if he heard that those were the general's sentiments? To which he replied, that he never heard more from the general, or any other person, than that they were mismanaged, without any reason accompanying this assertion. To the other questions proposed to him he answered, that he was well acquainted with the West Indies; that he knew of no Caribbs in any of the adjacent British islands, but a few at Dominica; that he looked upon count d'Henri as a man of honour, who would not assert any thing but what he knew to be true; that his whole stay at Martinico, after he received the above information, was about ten days; that the count informed him, that 150 men would keep them in a state of obedience, or at least be sufficient to protect the planters from any thing they might attempt against them; that the count knew very little of English, or he of French; and that he knew of no steps taken by the white inhabitants of St. Vincent in consequence of this information, after his return thither.

Lord *Barrington* rose, and begged leave to read a letter as part of his speech, which he had received that morning from Mr. Adair. It contained an apology for his absence on account of illness, and of some drugs, which had been sent out to the ceded islands, having miscarried; and a reference to an inclosed letter, dated the 6th of October last, from a surgeon now on the expedition at St. Vincent, acquainting Mr. Adair, that the troops were fully supplied with every thing they might want in the medicinal or drug way.

Mr. *Thomas Townshend* then rose and said:

Sir; I am sensible how deficient I am, I must entreat the indulgence of the House, and I hope their candour will enable me to proceed. I have been accused of delay, and of procrastination in this affair, but with what justice I leave the House to determine. It was my wish to have this business finished; and from the very moment I heard of this extraordinary expedition, I determined to make it a subject of parliamentary enquiry. It is a sub-

ject, however disregarded at present, of the greatest importance to this nation. From the evidence at your bar, Sir, you have been told, and it is agreed on all hands, that the Caribbs were peaceable till they were alarmed by the surveyors cutting roads into their country. They then opposed them, and surrounded a detachment of forty men, sent as a guard. Mr. Alexander immediately marched up with the remainder of the troops; and the Caribbs, upon a promise that the business should stop till fresh orders arrived from England, generously, after acting to those forty men with all possible humanity, I may say hospitality, dismissed them, and did not hurt a hair of any man's head. They fired no shot, they used no violence, but relied on the faith of a promise made them, and returned peaceably to their habitations. But Alexander did not return quite so tranquil. He returned, he says, with regret from so verdant and rich a party of the country. He wishes his Majesty's royal clemency had been less. And here let me ask, Sir, from what part of his Majesty's character Mr. Alexander dared to expect the royal assent to extirpating those miserable people? And why should Mr. Alexander presume to trifle with the character of his sovereign? What was the conduct of administration when they received this intelligence? An almost instant resolution to extirpate those unhappy miserable Caribbs, whom it has become fashionable to call savages. Troops were sent out upon the disgraceful and dishonourable service, unprovided with tents and camp equipage. A plain, honest, country gentleman, and who is an exceeding good fox hunter [here the House laughed heartily] was appointed, though no military man, to the command of those troops. As soon as he got (poor man!) his red coat on, and cockade mounted, he appointed a staff superior to that which he had for the reduction of Martinique. He had a quarter-master general, an adjutant general, commissary of stores, assistant engineers, apothecary general and surgeon to the hospital, and no hospital there! This commander in chief, Sir, was to be assisted by the council of St. Vincent, and by the governor of Dominique, governor Young and commissioner Young. After Mr. Leybourne had been from St. Vincent's to the Grenades, and from the Grenades to St. Vincent's, two or three times, he was superseded by a military gentleman, who was authorised to act, in-

dependent of the civil power. Happily, Sir, no such authority can be given by any man in this country: it was indeed attempted soon after the accession of the present family in the reign of George the 1st; and lord Cadogan solicited the command; but he was convinced of his error. From the knowledge I have of the military gentlemen at St. Vincent's, and the commander in chief in America, and knowing them to be good men, I am certain that they disapprove of this cruel and oppressive measure. No military man was ever consulted upon the occasion here: even the advice or opinion of the noble lord who so ably fills the office of Secretary at War, the man who, in case there is no commander in chief, that should give his advice. No, Sir; the cabinet council, that unconstitutional society, shut their doors against the Secretary at War, and against every general officer. Indeed, they have been consistent throughout. The execution equals the design; and I defy any other administration than the present to have contrived and executed so notable a scheme. An evidence at your bar, a clever, artful, diffuse man; in short, an interested planter, was consulted upon the occasion. He thought sending the Caribbs to the coast of Guinea was an eligible plan; but willing to take farther advice, he asked a captain of a ship, and indeed I honour the captain of the ship for his prompt disposal of those people. He says, send them to the island of St. Matthew; it is nearly the size of St. Vincent's, well wooded and watered; it belongs to nobody, excepting indeed the Portuguese, who discovered it; but they are a contemptible nation, and will not be suffered to take it, as they have equal right to St. Helena, and many others. Mr. Sharp recommends sending them to the country of their ancestors, where they will be as bad off to the full as they are under the hands of our cabinet council. He says, Great Britain may grant them about 10,000 acres of uninhabited land on the coast of Guinea, with navigable rivers and plenty of fish, and furnish them with husbandry tools and some provisions. This advice Mr. Sharp, with equal candour and humanity, acknowledges was thought upon in a moment in consequence of an application of that sort to him from lord Hillsborough, and sent upon blotted paper. This foul paper, Sir, containing much foul nonsense and cruelty, was laid before the lords of council, and upon no other autho-

rity whatever agreed to. I shall therefore make two motions.

1. "That the expedition against the Black Caribbs, in the island of Saint Vincent's, was undertaken without sufficient provocation on the part of those unhappy people, and at the instigation of persons interested in their destruction, and appears to be intended to end in the total extirpation of the said Caribbs.

2. "That the sending the troops, part of which were totally unprovided with camp equipage and necessaries, on that service, in the unhealthy season of the year, is not justified by any necessity of immediately encreasing the military force in the island, was contrary to the advice of the governor, and must prove unnecessarily destructive to some of the best troops in his Majesty's service, and probably defeat the purpose for which they were sent, and bring disgrace upon his Majesty's arms."

Lord Folkestone :

Sir; much having been said by the hon. gentleman who made the motion, on the iniquity of this transaction, there remains but little for me to add. I should have thought, Sir, that our generosity, as Englishmen, would have taught us to consider the liberty and property of others as sacred; but if that was insufficient, I should have thought motives of humanity might have restrained us from wanton and premeditated acts of cruelty upon a set of defenceless people. The only question upon the present subject that can direct us to a just determination is, who committed the first hostilities? It is asserted the Caribbs are subject to our government: we grant it, though it may be disputed: but can it be said, even under those circumstances, that invasion of property is no hostility? Sir, it is very evident that the first act of hostility was committed by us; in my opinion, the Caribbs are justified in what they have done, and I heartily second the motion.

Mr. *Hans Stanley* set out with great candour: he condemned the principles on which colonization was founded: however current and prevalent the policy by which they were established and supported might be among the European powers, he confessed, he was far from being satisfied with the notorious deviations from humanity and equity, by which they were upheld; it was a matter of serious and melancholy consideration, to think of the great number

of his Majesty's European subjects, who daily fell victims to the noxious, and, one might almost say, the pestilential effects of the West Indian climates: he understood, upon the best computations, that not one third of those who went to those islands to reside ever survived the seasoning: it was besides a matter at which every man of common humanity must shudder, when he is informed that, upon the most accurate estimate of the numbers yearly enslaved, to gratify the thirst of gain and lucre of avaricious, unfeeling planters, they were proved by a learned author to be no less than 80,000. It was true those unhappy slaves were not brought to market for slaughter: no, they were brought to market, if possible, for infinitely more cruel and iniquitous purposes. He said, that in his consideration of any matter of the nature of that now before him, he should not think of either the stature or complexion of any man, whether he was a pigmy or a Patagonian, or whether he was a white, yellow, or black; he only looked to the present measure so far as it was founded in natural justice and good faith, and supported by sound policy, and that necessity by which those who are entrusted with the executive part of the government are compelled to act. In this light, therefore, he should submit it to the House, whether the Caribbs were subjects or sovereigns. To contend for the latter, would be to the last degree absurd; if the former, then they can possibly claim no other right but what subjects are entitled to. That this right, says he, can never exceed a right of occupancy, will not be denied by any man who pretends to know the principles on which societies of men are formed, or governments established. How, then, does the question now under consideration come before us? Why, whether administration have a right to enforce submission to orders calculated to preserve that particular establishment of which those savages form but a part? That this submission has been refused; and that they have set up a claim of independency in opposition to it, is agreed on all hands: that the present measure was evidently necessary on those grounds, is therefore incontrovertible; that it was immediately necessary, is equally clear from the papers now on your table. If, then, the latter be allowed, every mode of putting it in execution must fall to the ground; for, however exceptionable the season of the year, and other circumstances, may ap-

pear, (though I do not mean to give any opinion on a matter I am so incompetent to judge of) in which the expedition was sent out, the propriety of the measure must stand fully justified on the ground that, to delay it any longer, would endanger the total destruction of the colony. It is not improbable, Sir, that those gentlemen who now so warmly oppose the present measure, would have shewed themselves equally ready to fix an indelible but just stain on administration, had they, through neglect or inattention, quietly suffered the savages to murder our planters, and ravage their settlements.

Mr. *Cornwall* said, that the hon. gentleman's general sentiments and reasonings did him honour as a man and a politician: that nevertheless, though they might be extremely just as to the general scope of them, they were very erroneous when applied in the manner now contended for: that the spirit of colonization and plantation, now carried on by the sovereigns and subjects of the several powers of Europe, though faulty in many respects, and perhaps in the end big with the most pernicious consequences, was now become, in a great measure, indispensably necessary to each separate state, considered individually, particularly to such whose rank and importance depended chiefly on commerce: that, however, those considerations had but a very remote relation to the present question; but that it was the hon. gentleman's deductions from certain principles he had laid down to which he chiefly objected. The hon. gentleman speaks of the principles of government, and the inferences to be drawn from them, as if the Caribbs were intimately instructed in the depths of modern policy, and of the most perfect foundation of civilized government: he talks of subjection and occupancy, of sovereignty and resistance—to whom? to people who are totally unacquainted with any such refined distinctions. Has he adduced one proof, or stated one established fact, to shew the exact political relation the British government and those free negroes stand in towards each other? If he has not, away, then, with such false refinements and forced constructions. Those unfortunate men find themselves in possession of certain rights and possessions; they perceive those rights attempted to be wrested from them, contrary to promises on which they imagined they might safely depend. Was it to be supposed that they could, on find-

ing themselves, as they thought, so basely injured, forbear to resist? No, such a conduct from a savage would be unnatural; and nothing but an inability to do themselves immediate justice would have prevented them from taking instant revenge. It was their weakness, not a want of inclination, that saved the colony from utter destruction. Great stress has been laid on one side, and many doubts started on the other, whether they actually applied for assistance to the French governor of the neighbouring islands; but, for my part, I cannot hesitate a minute in believing that they did. Such a conduct was a natural consequence of the injustice and oppression which they knew were intended against them. They looked upon themselves as independent; they were taught so; they were told so: they received the strongest assurances that the King of Great Britain was of the same opinion, but they found they were deceived. They were unacquainted with the rules of Westminster-hall; they never dreamt of bringing an action against a forcible possessor. No; they applied to a sovereign power, who, they thought, was both able and willing to assist them in repelling the invaders, and in taking vengeance on their faithless oppressors. This was the treason, this was the conspiracy, that those ignorant savages were guilty of, howsoever denominated by the measured language of mercenary planters, or misinformed ministers. The hon. gentleman says, he has defended the measure by its necessity, and insists that that likewise goes to justify the mode of putting it in execution; to which last I readily agree; I cheerfully join issue with him on this point. I grant, if there was a real necessity for sending our troops to that island, the season of the year, whether at June or Christmas, and many other considerations of the same nature, would not in the least weigh with me: the dangerous and critical situation of the colony must at once remove every material objection of that kind. But has the hon. gentleman shewn that this was really the case? Have the papers on your table spoken such a language? On the contrary, taking the worst of the facts charged on them to be true, in full contradiction to the whole tenor of the rest of the evidence, and of the sentiments of the officers examined at your bar, not the representations of interested persons, can it be pretended that the present measure was justifiable? If

then the present measure was not justifiable, no man in his senses could object to the motions.

Sir Richard Sutton. Sir, I just beg leave to say a few words upon this question. The Caribbs, Sir, must be subjects or sovereigns; there is no intermediate order. I consider them as the former since the year 1668. The French have since ceded St. Vincent's to us, and we have a double claim to sovereignty. Whatever may be the opinion of other gentlemen with respect to the expedition, I think it justifiable and necessary, from the representations that were made by the planters. If administration had refused to assist them, an opposition and cry equal to the present, would have been raised against them; that the honour of the crown had been betrayed; that we were afraid of the Caribbs; and that they were afraid of hurrying us into a war with France, who assisted and countenanced those savages. Such, Sir, would have been the language of opposition; and though I think, and perhaps it would have been better, that our avarice had not led us to the discovery of America; yet, Sir, from the evidence delivered at your bar, whatever conclusion this expedition may have, administration are not intitled to any blame whatever.

Lord George Germain stood up, and dwelt for a considerable time on the conduct of administration towards the natives on our first taking possession of the island, of their peaceable demeanour and carriage towards the planters, of their humanity towards the captain's guard when in their power, and of their supplying them with victuals while in that situation. But, said he, it is contended that those people are rebellious, that they love liberty and independence: if the two latter are proofs of the former, I believe that they are very rebellious. On the first settlement of this island, those people, it appears, came in, and took the oaths to government: they behaved themselves quietly as subjects, till an attempt was made to reduce them to slavery, without even pretending any crime on their part. Will any man in this House, at this time of day, pretend to affirm, that standing on their own defence without even a crime imputed to them, was treason, and that they deserved to be extirpated merely to gratify a set of inhuman mercenary planters? No; the constitution forbids such a violation of the rights of the poorest and meanest of the society;

and, thank God, the Revolution has put it out of the power of any man publicly to controvert this proposition: that submission is invariably the just return for protection, and that a person never forfeits the latter, till he offends the whole community, by opposing the executive power in the commission of some act authorized by the laws and constitution of this country. A gentleman at your bar has fortunately hit upon an expedient that will solve the present difficulty. He says, that they can have no claim to any land but what they have cultivated, and that consequently all that is at present covered with wood, and uncleared, belongs to government. A very pretty distinction truly! Does he consider, or did he trouble himself to reflect on the manner in which those people live, and the means they employ to procure a subsistence? Is he ignorant that those poor people live chiefly by fowling and fishing? If they are removed from the vicinity of the sea, and into the open country, they must be almost as miserable as if they were actually sent to where he and the rest of his worthy colleagues would willingly dispose of them. His lordship concluded by condemning the whole of the military arrangements, and insisting that two regiments would answer every wise and equitable purpose that administration ought to wish for, or humanity permit.

General Harvey hoped the House would not think it improper to inform them, that he was not consulted, and to assure them, that he was always ready to attend on every occasion, on which he imagined he might be of the least service in the way of his profession, from the fifer to the commander in chief; that he understood, that it still remained a doubt with some high in the profession, (meaning general Conway) which was the best time to send out a relief to the ceded islands: that he had spared no pains to be properly informed on this head, having applied to the several persons both in the military and physical way, who were most likely to give the best information, that this enquiry extended from the little government of Senegambia to the places and garrisons of the most importance; and that the result of his enquiries produced, among others, the following answers from a gentleman equally esteemed for his military knowledge and understanding, (general Melville) which he begged leave to read as part of his speech; the purport of

which was, That a relief should be generally sent out as early in January as possible, that, however, considering the danger to be expected from hurricanes, and the very little difference there was between what was called the sickly and healthy seasons, the difference he believed was hardly worth regarding; but that certainly for sending out troops, or a relief intended for actual service and military operations, the latter end of December, or early in January, was much the best time.

General *Conway* then stood up, and, after paying general *Harvey* a compliment on his attention in the above instance, informed the House, that he was glad to be set right in a matter of so much importance, and that he no longer retained any doubt of what he was not before sufficiently satisfied of.

Colonel *Barré* insisted chiefly on the peaceable behaviour of the Caribbs before the attempt made to rob and enslave them, and their placability and humanity after they had been injured. He dwelt with equal humour and sterling sense on the conduct of Mr. *Alexander*, in his military arrangements, and on the reluctance he expressed of being obliged to comply with the improper clemency shewn in his Majesty's instructions. He compared this gentleman's certainty of success to the general officer, who with his finger pointed out the means of passing a river to the great *Turenne*, who replied, that if his finger was a bridge, it might easily be effected. Throughout that part of his speech he carried on a ludicrous comparison between the worthy president of the council and his name-sake of *Macedon*. He said, the propositions made by the commissioners for the sale of lands in the ceded islands, and adopted by their wise principals at home, for removing the Caribbs to the leeward side of the island, and for preventing private purchases, put him in mind of an incident which he heard had happened during the late war in America: a volunteer, being on a party with some light infantry, and a few friendly Indians, they happened to be surrounded, on which the volunteer shewed some signs of fear; and being asked by one *Daniel*, an Indian, and old friend, what was the matter, he expressed to him a great dread of being scalped by the enemy; 'Oh,' replied *Daniel*, 'if that be all, I will at once remove that uneasiness, for I shall take care to scalp you myself.' He next animadverted upon the parole evidence, and the

degree of credibility which it deserves: one witness tells you, that count d'*Henri* did not understand English, nor did himself understand French, and I believe he might have added, nor English either; yet he pretends to relate the exact sense of conversations which passed between them. Now, for my part, I understand French very well, and, for all that, I could not pretend to recollect so precisely, as the witness has done, what had passed between the count and me on this subject, though I have had several conversations with him on it; and indeed I must say he entertained very different sentiments, in many particulars, from what the witness has imputed to him. Another gentleman, a well-known witness at your bar, has told pretty much such another story, relative to conversations which passed between him and four Frenchmen. He tells you, indeed, he had an interpreter; but he does not say upon that particular occasion.—The colonel concluded with remarking on the unfrequented coasts of Africa, the island of *St. Matthew*, the cabinet council, and the scraps of blotted paper.

Lord *North* entered into a long justification of himself, the rest of the ministry, and the planters, chiefly on the written evidence, and the motives that induced the memorialists and the ministry to vary their plan, according to various circumstances, and the different exigencies that might occur. He said, he was obliged to the hon. gentleman who moved for the enquiry, for distinguishing the motions, for debating them together, by which the sense of the House might be had with less trouble; and particularly for his candour in acquainting them with all he intended to move at once. This, he said, was fair and parliamentary, and prevented unexpected questions being agitated at an improper time, or late in the night, when the House was neither prepared to properly examine or discuss them. He should, he said, have been much obliged to him if he had made the first less complex; however, he hoped that he had already proved that the measure had not been undertaken without sufficient provocation; that he should have taken it as a greater instance of the hon. gentleman's candour, if instead of persons interested he had said persons solely interested. As to the last part of it, relative to the extirpation of the Caribbs, he was sure the hon. gentleman would readily withdraw it, when he had properly attended to part of the dispatches from lord

Hillsborough, contained in No. 35. Here his lordship read an extract from those dispatches, wherein governor Leyborne is authorised to treat with them on the following terms: either to quit the island on the transportation scheme, to agree with the terms granted to the free negroes in Jamaica in 1738, or consent to settle on it according to the terms formerly proposed. His lordship dwelt with great force on the humane, tender expressions diffused throughout this dispatch. He added, that this being the case, he had very little to say relative to the propriety of the military arrangements, as that was not his province; that, however, it was allowed from every side of the House, that the latter might be well justified by the immediate necessity there was for its speedy execution; and concluded, that the hon. colonel (Barré) was very happy in an extensive acquaintance with foreign officers of rank; yet he could by no means doubt the veracity of the witnesses at the bar, as well from the collateral proofs substantiating their evidence, as the hon. gentleman's diffidence in laying any great stress on what he allowed at that time made no great impression on his mind.

Colonel Barré replied, that it was true he had the honour of being acquainted with two foreign general officers of rank, his old friend Don Francisco, and count d'Henri, the former of whom he got acquainted with at Gibraltar, and the latter on the continent, whither he generally took a trip every year, as he had nothing to do at home; that his regard for the count prevented him from particularizing any part of a private conversation, neither did he choose to measure a man of his consequence and known honour with the evidence at the bar; that in those excursions he still retained a warm affection for the honour of his country, and, from the time of setting foot on the continent, forgot all divisions or remembrance of party affairs; therefore he appealed to his lordship in what manner he could extenuate the charge that would be made against a great, a powerful, and a once glorious nation, for this shameful outrage, this murder, extirpation, and robbery of a few harmless savages. He concluded by assuring his lordship, that the count would be in London within a month or six weeks; and that he would advise him to apply to his excellency to know what he should do with the unfortunate Caribbs, if not already sacrificed to the avarice and inhu-

manity of a set of merciless planters and improvident ignorant ministers; by which means probably his lordship would happily get rid of what he seemed at present to be most miserably embarrassed with.

Lord Barrington went into an investigation of both questions, and the warmest encomiums on the gentlemen of the army. He observed, that it had been thrown out in the debate, that the military murmured: but he was certain of the contrary; he knew no officer did murmur, nor had a right to be displeased: the lower sort of people in this country were, it was true, too apt to find fault; but as for the gentlemen of the army, he was confident they were of another disposition, and of a different class. He would therefore, in so full a House, and so respectable a gallery, be extremely sorry that any person should go away impressed with such a notion, though he was convinced there was very little occasion for this caution in the eyes of the dispassionate or intelligent. As to the objections, that no military man was consulted on the occasion, he begged to be heard a few minutes. Taking the question as to the measure, no officer had a right to be, or properly could be consulted, for it was purely a matter of state: when, indeed, the measure was agreed on in council, then it was usual to take the advice of some military man: so it happened in the present instance; for general Gage, whose character was well known and established, had been consulted. It was asked, why I did not give my advice, and for what reason were the cabinet council doors shut against me? To the former I can answer, that I did give my advice; but the necessity of dispatch was pleaded, and, I believe, very justly too; and I can likewise affirm, that the doors of the cabinet were not shut against me on this occasion, more than any other, as a matter of state. I again repeat, I had nothing to do with it, and, in my official character, I did interfere. The hon. general behind me (Conway) knows that it is usual on such occasions to consult persons in their several departments, if they are members of the council. So far I was advised with, and so far I acquitted myself.

Mr. T. Townshend observed, that how much soever the noble lord on the Treasury bench might be warmed with approbation, and ready to pass encomiums upon the celebrated dispatch which he had entertained the House so long with, he was still strongly of opinion, that the Caribbs

were not at liberty to choose which of the three different propositions contained in that dispatch they pleased, but would be compelled to submit to the terms which the persons entrusted with the final execution of those instructions had all along determined on; and that as to what the noble lord who spoke last said was a matter of state, he contended, that the proper season of the year, and the other inferior considerations attending the expedition, were no matters of state, at least they were not so during the most successful administration and glorious period this nation had ever beheld; for the truth of which he appealed to his lordship, who was at that time in office. He concluded with insisting, that a bare letter to general Gage, desiring him to send two regiments from America to St. Vincent's, could not be properly considered as advising with or consulting a military man; and what occasion was there to send beyond the Atlantic for advice, when there were so many on the very spot capable of giving the most sufficient and intelligent?

The House divided on Mr. Townshend's first motion. The Yeas went forth.

Tellers.

YEAS	{ Mr. T. Townshend, jun. } 88
	{ Lord Folkestone - - - }
NOES	{ Mr. Rice - - - - } 206
	{ Mr. Cooper - - - - }

So it passed in the negative.

The House then divided on the second motion. The Yeas went forth.

Tellers.

YEAS	{ General Irwin - - - } 78
	{ Mr. Byng - - - - }
NOES	{ Lord Lisburne - - - } 199
	{ Mr. Onslow - - - - }

So it passed in the negative.

It was then moved, "That an humble Address be presented to his Majesty, desiring that his Majesty will be graciously pleased to acquaint this House by whose advice the measure was undertaken, of attacking the Caribbs in the island of Saint Vincent's; and of sending the troops for that purpose in the most unhealthy season of the year; a measure equally repugnant to the known humanity of his Majesty's temper, disgraceful to his Majesty's arms, and dishonourable to the character of the British nation:" it passed in the negative.

Debate in the Commons on a Motion for

a Committee to consider of the Subscription to the Thirty Nine Articles.] Feb. 23. The order of the day being read, for the House to resolve itself into a Committee of the whole House, to consider of the Subscription to the Thirty-nine Articles of the Church of England, or any other Test now required of persons in either of the two universities, several members were for putting an immediate negative thereon, and called loudly for the question, whether the Speaker should quit the chair or not.

Sir William Meredith then rose, and acquainted the House with his general reasons, as well as what appeared to be the sense of the House last year, on the impropriety of imposing tests upon youth at the time of matriculation; and concluded by assuring those gentlemen, that if they were determined to put a negative upon the proposed enquiry, in the first instance, he intended to transfer the debate from the present motion to another question, that is, whether this House be competent to judge of the propriety or impropriety of any subscription or test established at our universities.—Here he was severally answered by Mr. Page and Mr. Beckwith, that nothing was now properly before the House, but whether such an enquiry or discussion was necessary; that there was nothing offered which could induce the House to consent to the Speaker's quitting the chair, nor any ground laid down, or propositions stated on which it could regularly debate; that as to the honourable mover's intentions of proposing another question to the consideration of the House till the other was disposed, it was entirely irregular and unparliamentary; and that, as to the omnipotence of parliament, though it was not denied, the second question would nevertheless revert and remain on the same foundations as the first, those of expediency and necessity, and therefore the same reasons that would induce the House to resist one proposition, must oblige them to refuse to enter on the consideration of the other. Sir William then took a pamphlet out of his pocket, which he announced to be the work of Dr. Tucker, dean of Gloucester, purporting "that, subscription, or tests, might be very well dispensed with from young gentlemen on their matriculation, and from masters of arts, and those who took degrees in law, physic, and music." If the Speaker quitted the chair, and the matter came to be de-

bated, this was the ground he chiefly intended to take; that the same proposition, or at least those of an exact similar tendency, were rejected last year; he submitted to the House, that every thing which passed in the debate on that occasion, rather encouraged him in the propriety of the present application; and concluded by appealing to his opposers if they contended, that every thing laid down in the Thirty-Nine Articles, and every subscription and test established in their support, were to be defended without reserve.

The question that the Speaker do leave the chair being put,

Sir Roger Newdigate said:

I do confess, Sir, I am somewhat surprised at the motion proposed by the hon. gentleman. I thought this House had already decided; I thought it had on a former occasion shewn its disapprobation of such motions; I thought it had finally and for ever determined the point. Last year, Sir, we had a set of petitioners, who solicited relief in matters of subscription; their petition met with that reception it, in my opinion, richly deserved; this House, in the strongest terms, evinced its abhorrence of the measure; and does the motion proposed by the hon. gentleman merit a better fate? Is it not virtually included in the petition brought in last year? For I do contend, Sir, that, under whatever appearance it may be moved, the tendency of the motion is the same; it is to set open the doors of the church, and to admit within her pale, dissenters of every denomination; under the cloak of religious toleration it is to wound our ecclesiastical establishment, to overturn her fences, and lay her bulwarks in ruins. I, for my part, Sir, am heartily against the motion; and therefore shall vote for your not quitting the chair.

Mr. Welbore Ellis:

It is always, Sir, my wish to give as little trouble as possible to this House; what, therefore, I have to say shall be comprized in few, very few words. I am entirely against the motion proposed by the hon. gentleman, and have many reasons why I think this House should not at all intermeddle with affairs of the kind. The several statutes confirmed by act of parliament to the two Universities, are clear and explicit; by them they are empowered to make such regulations for the government of their own body, as they

in their wisdom, aided by experience, shall deem fit. Now, Sir, the question seems to be, whether the regulations the Universities have thought proper to make are such as have a tendency to a national good or a national evil? I could urge various reasons in support of the former part of the question; but not further to intrude on the patience of the House, I shall only proceed to declare, that, in my opinion, the calling on the legislative power to controul, by a solemn act of its own, the solemn acts of a body so venerable, so important, and so truly consequential, as either of the Universities; I say, Sir, the calling on the legislative power in this manner, and for this end, is a mode of proceeding highly injudicious, highly imprudent, and so deserving of censure, that I shall not scruple openly to profess my dislike of the measure, by voting, Sir, for your not quitting the chair.

Mr. Dowdeswell:

Sir; since we seem to be entering into the quintessence of the debate, I may be indulged in expressing my concern that the right hon. gentleman who spoke last should have sat down without giving us some of those various reasons he tells us he could urge to prove that the Universities, in so regulating their affairs as to require subscriptions from children to the 39 Articles, have acted consistent with the national good. From the right hon. gentleman's knowledge of these matters, I expected much information; from the strength of his reasoning powers, something like argument instead of positive assertion in support of his hypothesis. Since, however, the right hon. gentleman has not thought proper to gratify our wishes, I shall beg leave to take up the debate upon his own ground.

The Subscription required from lads to the 39 Articles at their matriculation is, according to the right hon. gentleman, "a University regulation which has a tendency to promote a national good." This, Sir, is the point I controvert—this the position I most peremptorily deny. It is true, Sir, I may be said to speak rather partially, for I have myself a son at Oxford, but it is also true, that the paternal feelings would incline me to lean on that side most favourable to his actions: but, Sir, I ask what private, much more national good, can accrue from a youth's subscribing formularies, not one syllable

of which it is possible for him to understand? That a boy at 16 should comprehend the nice distinctions, and scholastic subtleties contained in the Articles, is not to be expected; why, therefore, burden his conscience? Why tie him down to professions, the very meaning of which he is an entire stranger to? For priests much may be alleged; and even for others who take degrees plausible reasons might be suggested; but none of these are applicable to youths at their matriculation; and nothing like a shadow of a reason being to be urged in favour of the practice, the private utility ceases; the national one falls to the ground; the judiciousness of the hon. gentleman's motion remains unrefuted; and unless it be contended that this House has not a competent jurisdiction of these matters, there can, in my opinion, be no impropriety in your quitting the chair, in order that we may proceed to a fair and candid discussion of the motion.

Mr. Welbore Ellis :

Unless particularly alluded to, I should not, Sir, rise thus a second time to solicit the patient attention of the House. It was from a disinclination to trouble it, that I contented myself with intimating only that I could offer reasons in support of my opinion; I am now called upon, and must publicly declare them.

I shall consider, Sir, the matter of debate before us in a private and in a national point of view, thus endeavouring to obviate the objections rather glanced at than urged by the right hon. gentleman who spoke last.

The two great seminaries of learning, Oxford and Cambridge, were instituted for the instruction of youth in sound learning, and the promotion of the national established religion of the country; now, Sir, as religion should ever go hand in hand with learning, the youth at one of the Universities (Oxford) are taught to subscribe certain formularies, as the right hon. gentleman is pleased to call them, which I look upon as an act somewhat equivalent to that which goes under the denomination of confirmation. With respect to the objection advanced by the right hon. gentleman, that a youth cannot possibly understand what he subscribes? Upon my word, Sir, it carries with me no kind of weight, and yet I allow the little force it has; I allow the impossibility of a youth's understanding the 39 Articles;

and I allow it on the testimony of a University statute which ordains, that "tutors, professors, and others, shall instruct the pupils under their care in the rudiments of religion, and in the 39 Articles." Now, if after subscribing these Articles, they are to be instructed in them, the statute which requires it sufficiently implies the sense of the University on this head, and justifies me in supposing, that subscribing to the Articles is no more than repeating a creed, or saying a catechism, which youth are carefully taught long before they are supposed from their years capable of understanding ideas conveyed by the terms adopted on the occasion; and yet, Sir, I hope no gentleman in this House will argue against the utility of teaching youth to repeat the credenda of their religion, though those credenda be confessedly too abstruse for their comprehension.

As to the subscription required to the Articles at their matriculation, it being according to my notion of the thing, no more than a bare assent to the presumptive truth of such and such credenda, in which they are further to be instructed, it is putting them in the state of the ancient catechumens, and a mean adopted, as most likely to obtain the end, which is the promotion of private religion; unless, therefore, gentlemen will contend that in a Christian country it is absurd to make Christians of our youth, unless they will maintain, that it is immaterial to the state what religion its members profess; they must allow, that instructing our youth in the religious principles of their country, is at least a private good, and till it can be shewn that the subscription required to the Articles is a measure in itself dangerous and inexpedient; until it can be demonstrated that it answers not the end proposed, and is withal a burthen too grievous to be borne by the consciences of our youth; until this can be done, we must, we ought to let the matter rest entirely with that venerable body, which hath hitherto for ages acquitted itself to the general satisfaction of the state.

But, Sir, I go one step further: the University of Oxford, to which I shall confine myself, hath many rich, many royal foundations; a variety of eleemosynary gifts have been conferred upon it by private persons. Now, Sir, what can we suppose to have been the intention of the numerous benefactors who thus enriched this venerable Alma Mater? Was it not

to enable her to propagate the established faith? Was it not to make her the fruitful parent of a national religion? And can it be supposed, agreeably to the spirit of these benefactors, that she should adopt a numerous offspring, differing in principle, in sentiment, and opinion, from this their pious parent? No, Sir; such was never the intention of the founders of the different colleges; their design was to make the University the guardian of the national faith; and those who were willing to participate of her benefits were required, as a proof of their unanimity of sentiment, to subscribe sundry articles, and acknowledge sundry symbols, in token of such unanimity.

I shall, perhaps, Sir, be told, that "many of the youth, from whom subscription is required, are in rank and fortune too exalted to stand in need of participating in any benefits the University has to bestow;" but, Sir, they stand in need of instruction, else, why do they resort within her walls? Why else frequent her hallowed cloysters? To fit them as members of this or another senate; to fit them as members of the community at large, is the business of the Universities; and how they can be too carefully instructed in the religion of their country, who hereafter are to pass acts for its promotion; how they can be too strictly tied down to the established faith and worship, whose civil liberties depend so much upon the existence of our ecclesiastical system: how this can be, I, Sir, upon my word, am at a loss to conceive.

On the whole, Sir, I think it appears both for the good of individuals as well as the state, that some distinguishing tests should be adopted; and since the University of Oxford for two hundred years hath required subscriptions; since during that period she hath flourished beyond compare, and hath annually sent out men into the world, who for learning and morals are an honour to their country; since to the methods adopted by this University, we are much beholden for the maintenance of the established religion; I, Sir, cannot see any good end, but much mischief that would attend the proposed interposition of the legislature, and consequently, Sir, your leaving the chair.

Mr. Grey:

I so much, Sir, differ from the right hon. gentleman who spoke last, that

the very argument he has made use of in defence of subscription is the very argument I should use against it. He talks, Sir, of the "necessity of tests," to distinguish the godly, I suppose, from the wicked. Now, Sir, what do these tests, these subscriptions, call them what you please, what do they do? Why, Sir, they exclude from the benefits of university education a multitude of dissenters of every denomination. I, Sir, abhor such contracted notions; I am for throwing wide the gates, and letting who will come in; as to dissenters, they are Protestants, they are Christians; why, therefore, should their sons be excluded from our seminaries? And even with respect to the Roman Catholic youth, by going to our universities, and mixing with our young men, their prejudices might be softened, might wear off, and at length, if we breathed the Christian spirit of toleration, distinctions might be at an end. For as to speculative matters, they are, in my opinion, by no means material; every man knows what is honest and dishonest, what is base or praise-worthy, what is noble or mean; in this we are all agreed; and is not this, Sir, sufficient for the purposes of life? But what are these articles which our youth are forced to subscribe? The offspring of monkish enthusiasm, begot by ignorance upon superstition; they are a jumble of contradictions that pass the line of every man's understanding not bewildered in the regions of metaphysics. Away, therefore, with such fanatical stuff; can children understand them? No: grown men who have plunged into the controversies of those ignorant ages when they were framed are altogether at a loss. We now, Sir, live in more enlightened times; formerly nothing but priests dwelt in the colleges; all their institutions shew that they were founded for the training of such men only; their chancellors were churchmen. The case is now widely different: they are become places entrusted with the care and education of our youth, a matter of great importance to the state; their chancellors have lately been officers in civil departments; I honour the choice they have lately made; not that I suppose the chancellors of either of the Universities at all conversant in matters of religion [a loud laugh through the House;] but, Sir, they are worthy men, and I should hope, that one of them, now before me, will recommend an abolition of subscription to the University over which he

presides. If Oxford wishes to be considered worthy the care of our youth, let her relax from her discipline; let her not obstinately persist; if she does, Sir, let us shew ourselves friends to religious liberty, and compel her to lay aside those barriers which exclude such numbers of our youth from the benefit of that instruction, they as subjects of England have a right undoubted to partake of.

Mr. Cornwall :

There must, Sir, be something extremely singular in the formation of the human mind, that arguments which strike some so forcibly should produce a quite contrary effect upon others. The hon. gentleman who spoke last has furnished me with a stronger argument than any I could have produced against his opinion; He says, Sir, that "the subscriptions required, operate as barriers to the exclusion of dissenters." Pray, Sir, is not this answering the very end for which they were instituted? Was it not to exclude those whose opinions were not conformable to the established religion? So that, according to the honourable gentleman, we are, with a high hand, to interpose our legislative authority to remove subscriptions, because subscriptions answer the end for which they were introduced! Truly, Sir, this is a pretty kind of reformation! As to the Roman Catholic youth intermixing with the Protestant in hopes of conversion, it appears to me a singular scheme. Suppose the conversion should be effected on the Protestant instead of the Catholic youth, or at least suppose their prejudices against Popery should be converted into a bias in its favour! Youth would then come into this House prejudiced in favour of that religion which has ever proved destructive to the liberties of their country! A blessed scheme of reformation! I am for toleration, Sir, but not of this kind, on which account I shall strenuously oppose your leaving the chair.

Mr. Charles Fox :

I rejoice, Sir, to find that we are at last got into a debate from which I was afraid we were altogether departing. As the matter has been managed, the question before this House is simply, Whether it be at all expedient for the legislative power to interpose in an affair of this kind?

I was exceedingly young, Sir, when I went to the university; not however so young but that the matter of subscription

struck me. At the age of twelve, youth, when matriculated, are required to subscribe, 'Articuli fidei duntaxat,' but at sixteen, they are to subscribe the oaths of allegiance and supremacy: now, Sir, whether it be supposed that their political is of more importance than their religious creed, I will not take upon me to determine, but it should seem that the institution supposes them not capable of understanding the sublime mysteries of politics until sixteen, though at twelve it is apprehended they can both understand, relish, and swallow down the sublimer mysteries of religion! As to the distinction which has been laid down by a right hon. gentleman who spoke some time since (Mr. Welbore Ellis) that "it is only subscribing to what they are hereafter to be instructed in, and means no more than a repetition of a creed," Sir, this subscription as well as repetition is a solemn thing; it is a serious attestation of the truth of propositions, not a syllable of which, according to the right hon. gentleman's own confession, the youth who subscribes can understand. Why, therefore, attest the truth of what he is ignorant? Is not this to teach our youth to prevaricate, and will not a habit of prevarication lead to the destruction of all the prompt ingenuous frankness, which ought to be the glory and the pride of youth?

This House, Sir, is accustomed to accept of the simple affirmation of witnesses; and is it not a dangerous doctrine to teach, that because an oath is not administered, a person may solemnly bear attestation to the truth of what, being entirely ignorant of, may, for aught he can tell, be entirely false? I relish no such doctrine, Sir, I think it has a dangerous tendency; and I should therefore wish that the chair might be quitted, in order that we may discuss the vast importance which can redound to the state, as well as the infinite benefit which accrues to individuals, from their being trained most solemnly to attest and subscribe to the truth of a string of propositions, all of which they are as entirely ignorant of as they are of the face of the country said to be in the moon!

Mr. Fuller :

I pretend not, for my part, to be conversant in these matters; but I think, Sir, the question exceedingly short. The competency of the House to take cognizance of the affair is, I presume, on all hands agreed: those, therefore, who think

that all is right with respect to the Articles, will be for your not quitting the chair; those, on the other hand, who may think some things wrong, will be for your leaving the chair, in order that the errors may be enquired into and amended.

A Member. I confess myself, Sir, exceedingly sorry that the hon. gentleman who made this motion did not last year move the House on the occasion. From the complexion of the House at that time, it is more than probable success might have crowned his well-meant endeavours. However, Sir, as I entirely concur with him in opinion, I shall speak in defence of a measure I so ardently wish may be adopted.—Sir, the inclination of this House was known during the last session; hints were dropped sufficient to alarm the two universities: yet how, Sir, did they act upon the occasion? Oxford, grown old in errors, persisted with an obstinacy scarcely to be paralleled: she would do nothing. Cambridge, indeed, to save appearances, did—what? Why, as good as nothing. We are still, Sir, to be shackled in the same manner as in the superstitious days of monkish darkness. The all-cheering sun of reformation hath indeed arisen; but we prevent its reflecting rays from enlightening our minds in the manner to be wished. The tyranny of a Laud is pleaded for; his accursed farrago is to be crammed down the throats of our youth; and is it not enough that we have shaken off the Roman yoke, but our necks are still to be burthened with the Calvinistic mill-stone, invented by a despicable ecclesiastic? Men seem, Sir, to have an aversion to every kind of reformation, until the evils complained of are past enduring. Rome tyrannized for ages uncontrouled: she lorded it over other men's consciences with impunity; she fomented discords, promoted assassinations; but till, intoxicated with success, she proceeded to dethrone potentates, till she wrested the sword out of the hands of the civil magistrate, she was not resisted; then, Sir, men felt, and redressed their wrongs; and shall not we feel, and redress the remnants of her superstition? Forbid it, toleration! forbid it, religious liberty! No, Sir, we will still persevere, certain that in the end, truth will prevail; common sense will triumph over mysticism, reason over superstition, and a rational system of faith and manners over the musty relics of monkish spirituality. I therefore, Sir, am for your instantly quitting the chair.

Mr. Charles Jenkinson:

A cursory view, Sir, of the times would convince any man of the hon. gentleman's mistake who spoke last, in accusing Laud as the principal promoter of that accursed farrago, as the hon. gentleman was pleased to term it. [Here he referred to an act passed in the reign of Edward 6, and also quoted several particulars relative to professor Cheke, queen Elizabeth, and James the first.] From the passages, Sir, here alluded to, it is manifest, that what the hon. gentleman has attributed to Laud, is the work of other hands. But granting it to be, Sir, as the hon. gentleman says, yet candour must allow that Laud, with all his faults, was a very great man.

With respect, Sir, to the matter of subscription, I profess myself an advocate for the measure—a convert to its utility. I know, Sir, with men of lively parts and a brilliancy of genius, there is nothing so easy as to place an object in such a light, as that the by-standers cannot refrain from beholding it with ridicule: I know, Sir, that the hackneyed term superstition may be called in with great dexterity, as a bugbear to alarm weak minds, by suggesting groundless terrors: but surely, Sir, this cannot be called a superstitious age; it is rather an age of scepticism; under the notion of religious liberty, the solemn truths of religion itself are treated with contempt, and sceptical infidelity abounds.

Some men, Sir, are for laying our youth under no restraint: others go farther; they argue for the natural excellence of the passions; and urge, that they should be left to indulge them at will. But, Sir, if the passions are early felt, sad experience proves, that reason is a guest which takes not up her residence in our breasts till a late, a very late period of life. One man, who calls himself a philosopher, has contended that man, as he comes into the world, should be left entirely to himself; at random to receive each impression from without, at random to follow each suggestion from within. I do confess, Sir, I should have a great curiosity to try the experiment; but certain I am, a person trained in such a manner would be a man quite unfit to live in society. This, Sir, is the mode of education contended for by Rousseau, whom I always looked upon as an ingenious madman.

With respect, therefore, Sir, to an exemption from human ties, in matters of re-

ligion, I am against it. So much depends upon the right education of youth, that every innovation on an established mode, which for ages has been found to answer the end, should be avoided. That the present mode, adopted at our universities, has answered the end, the past and present experience may determine. Whence the man, who explored the unfrequented paths of science, unlocked the secret stores of knowledge, and laid open the hidden treasures of learning and of wisdom? Whence, Sir, Bacon? From an university. Whence, Sir, he who, by the surest geometric proofs, sought out the laws of matter and of motion? Whence Newton? From an university. On the other hand, whence all that scepticism, that froth of words, that puerile stuff, so much the taste of the present times? I will answer you, Sir: not from an university; but from your Humes, your Bolingbrokes, your Rousseaus, and others of this despicable tribe. Since then, Sir, the custom of our universities, for ages, has answered every end the state could require in the education of its youth, I am not for substituting another mode; I am not for making an innovation upon their establishment.

Nor is it, Sir, an establishment peculiar to English universities; all foreign ones have their tests. At the university of Paris I know a test is established, and the members are required to testify their strict adherence to such doctrines as characterise the religion of the country. By the edict of Nantz, also, provision is made, that Protestants, the dissenters of that country, shall nevertheless declare their assent to a certain form prescribed. What, therefore, has been so universally adopted, I should suppose was adopted because it was found to be of national utility; and I shall not, Sir, give my voice for England to be exempt from what has been found by foreigners necessary for the maintenance of the religion of the country: by consequence, I strenuously oppose the motion for your quitting the chair.

Mr. F. Montagu:

A gentleman some time since congratulated a noble lord opposite (lord North) on his election to the chancellorship of an university, and seemed to intimate, that his lordship might use his weight with the university in behalf of that side the gentleman espoused. I am afraid the noble lord has too much weight with some bodies, and too little with others;

[VOL. XVII.]

however, his lordship has, I am informed, given his opinion on the subject. As to the education of youth, it cannot be deemed more important than I think it; but, with respect to requiring subscription from all indiscriminately, I confess, I think it absurd; for the very knowledge of those articles our youth subscribe would be of no manner of advantage in civil life. I know a noble youth (the young marquis of Granby), who has all the goodness of his much-lamented father's heart, is possessed of infinite genius, and, as a classic, few, I believe, surpass him; yet, with respect to the Articles, I do not know that ever he professed himself a *supra* or a *sub lapsarian*; and, though a tolerable Grecian, he may yet not know whether the so-much-contested Greek word should be *Ομολογια* or *Ομολογιας*. The knowledge of these matters is unnecessary, and therefore no attestation of their truth or falsehood is required.

Mr. Thomas Townshend:

It is so seldom I differ from the hon. gentleman who spoke last, that I am sure it would give me infinite concern, did I not think that the difference so observable among particular friends, during the course of this debate, evinced that it was carried on with the greatest freedom and impartiality. I do not, Sir, rise warmly to espouse either side of the question. I am rather neuter; a situation in which I am not accustomed often to stand. I think the hon. gentleman's motion reaches too far, and yet I think it ought not to be entirely opposed. I am not displeased with the hon. gentleman who sits below me (sir Roger Newdigate); nor should I censure any gentleman who now does, or proposes hereafter to represent the university of Oxford, for warmly opposing the motion: but, I flatter myself, that, if the university should hereafter in its wisdom think fit to desist from requiring subscription, the hon. gentleman who so strenuously argues against the measure may then be induced to change his opinion, and be the first to extol the reformation made by the university. As to the Humes, the Bolingbrokes, and the Rousseaus, I verily think them, Sir, the worst pests to society; but do not let us go into the opposite extreme; let something be done; and if we cannot comply with all, let us shew a willingness to comply with such part as cannot injure the cause of truth, of religion, of virtue.

[C]

Sir William Dolben :

Sir ; upon a subject of this kind it is possible, that a person so obscure as myself may throw some light. The question before us seems to be, whether it is at all expedient for this House to interfere in the matter of subscription, and, if expedient, whether this be the time it should interfere ? For my part, Sir, I cannot divest myself of the idea, that the motion the hon. gentleman has this day made, is, somehow or other, connected with or involved in the motion which was made last year. The petitioners, seeing it impossible to gain their point in a direct manner, have endeavoured obliquely to obtain the prayer of the Petition. Beginning with the youth of the universities they thought would be a step towards ending with themselves. The stratagem was artful, but not too artful to be seen through ; and as, Sir, I believe this to be the case, I do not think it expedient for this House to interfere at all.

But, Sir, at any rate, this cannot be the time, if we consider the state of religion amongst us. Such is the degeneracy of the age, that, if we give way in one instance, we shall be pestered with petitions to grant many unwarrantable things. Has not this been the case, Sir, already ? First come the dissenters : next comes an allegation, that the degrees of consanguinity prohibiting from intermarrying with each other should be abolished, and that leave should be given for a man to marry his grandmother. Dr. Kennicott of Oxford tells the public, that we have a spurious Bible, to which no credit should be given ; he has therefore received 10,000*l.* for collecting manuscripts, and will not, I suppose, have finished before he receives another 10,000*l.* Mr. Foote, the comedian, had the shameless effrontery from his theatre to tell us, that the Ten Commandments might be divided into two parts, and that he would make a comedy of each part. Now, Sir, when such licentiousness, such sacrilegious assertions, are daily propagated, I think, instead of relaxing, we should keep a stricter hand. Besides, Sir, if the subscription at matriculation were such a grievance as is pretended, why do foreigners flock in such multitudes to Oxford in preference to Cambridge ? I know many there at present who think the complaint frivolous. In short, Sir, I wish the House not on any account to interfere ; and if it does determine to interfere, I am

clearly of opinion that this is not the proper time.

Sir Richard Sutton :

Mr. Speaker, in answer to what an hon. gentleman (Mr. Jenkinson) said some time since concerning the foreign universities, I, Sir, was at both Leipsic and Gottingen ; and I can assure him that at neither of those places does the custom of subscribing prevail. At Oxford, indeed, when I took my master's degree, I wrote my name in a book, and was afterwards told I had subscribed some articles which I had never seen. At the German universities we had students of all persuasions ; Catholics, Protestants, and those of no religion at all. We had, I remember, a youth born of heathen parents, educated in a Christian country, merely, I suppose, to preserve the breed.

Mr. Page :

I really, Sir, do not see why the House should be longer troubled with a motion, founded on a scrap of a pamphlet written by a person we know nothing of. This same Dr. Tucker might be answered by Dr. Tottie.

Lord North :

I am not certain, Sir, whether I should have taken any part in this debate, had it not been for an expression let fall by an hon. gentleman (Mr. Montagu) whom I am proud to rank amongst the number of my friends. The hon. gentleman, Sir, is pleased to talk of the weight I may have with some bodies ; he is also pleased to intimate, that I have given an opinion on the subject. Honoured as I am, Sir, far beyond my deserts ; distinguished in a manner to which my feeble abilities could lay no claim ; I can only say, Sir, that my opinion was not officiously obtruded ; I gave it, when asked, as became an honest man ; I gave it with all deference to those who asked it.

The question before us, Sir, has been this day much agitated. As a private individual, as a member of parliament only, I shall offer the objections I have to make to the motion proposed. Sir, we have heard a great deal about attestations and solemn subscriptions. The friends of the motion have, with singular adroitness, endeavoured to put subscriptions to the Articles on almost the same footing with oaths. Now, Sir, it so happens, that the gentlemen who have spoken in behalf of

the question, are ignorant of, or wilfully misrepresent, the matter of fact; for, Sir, the subscription required of youth at their matriculation implies nothing about their assent to the 39 Articles; they barely subscribe their names in token of their being members of a church which maintains such and such doctrines. When they take, Sir, a degree, the form runs thus: 'I do profess to believe, that the Articles, &c. contain nothing but what is agreeable to the word of God.' Now this, Sir, is very different from a simple subscription of their name, which, in the sense the University receives it, is far from meaning that the subscriber thereby declares his assent to every proposition contained in each Article.

But, Sir, were there any grievance in the case, who are the parties that complain? Not the members of the university; not the young men whose cause is pleaded with such persuasive eloquence. Who, then, are they? It is easy to guess, Sir, whence this motion originates; it is no difficult matter to conjecture the restless spirits who are at the bottom of it. But, Sir, shall we be prevailed upon to grant now what we wisely resisted in its first stage? Shall we permit in one form what we chose to reject in another? I should hope not; I should hope we are better friends to that religious discipline and establishment which have stood the test of ages.

We are told, Sir, of reformation. The reforming notions of this age are dangerous in their tendency; something more than reformation is intended; something that deserves an harsher appellation; and to which if we give way, adieu to religion, adieu to every thing dear to us as men and as Christians! On the whole, Sir, I am against the motion, because subscription enjoins no hardship on the parties who subscribe; because they do not complain of it as an hardship; because the sense in which they subscribe by no means implies their assent to the propositions; and because the times are such, that relaxation in matters of this kind, instead of reforming, would increase that dissoluteness of religious principle which so much prevails, and is the characteristic of this sceptical age.

Sir *W. Meredith* :

I find, Sir, that there are honest men, whose consciences can dexterously distinguish between subscribing and ver-

bally assenting to the truth of a thing. I envy not the gentlemen their talents; I have, thank God, through life been unaccustomed to all such subtleties. An ingenuous mind scorns pitiful evasions; it has no need of salvos, and detests them. I should have thought a youth, by subscribing, declared his unfeigned assent to the contents of the propositions he subscribed. I was mistaken, Sir; ministers explain it otherwise; he, it seems, only thereby subscribes himself a member of the established church! I thank the noble lord for his distinction; it may be of service to the cause of casuistry.

As to the petition last year moved for, the petitioners pleaded, as well as some other gentlemen over the way, in behalf not only of themselves, but of those who might have children; and, for the sake of our infant posterity, they were anxious to have what the noble lord thinks no grievance, but what I call an oppressive one, rectified.

The noble lord is pleased to say, that the youth make no complaints. To whom are they to apply for relief? Are they to present themselves at the bar of this House? Their superiors have refused to abate one tittle of their severe exaction: who, then, but some member, a stranger to the jargon of the schools, can take up their cause? Such an one has made this motion; and, content to be the servant of these little ones, he has solicited the interposition of that power which alone can save them from the oppressive hand of spiritual tyranny.

As to what an hon. gentleman let fall concerning Dr. Tottie, surely, the hon. gentleman has not perused the doctor's performance; but, lest the House should depart with a wrong impression of that reverend archdeacon, I will inform you, Sir, that, in a charge to his clergy, designed as a defence of the Articles, there is the following passage; "taken in a literal sense, the 39 Articles are horror and blasphemy."

The question being put, That Mr. Speaker do now leave the chair; the House divided. The Noes went forth.

Tellers.

YEAS { Mr. Charles James Fox } 67
 { Mr. Frederic Montagu }

NOES { Sir Roger Newdigate } 159
 { Sir William Dolben }

So it passed in the negative.

Debates in the Commons on the Bill for the Relief of Protestant Dissenters.]

Feb. 17. Sir Henry Hoghton. I rise, Sir, to speak to a Bill, which I propose, by the leave of the House, to bring in: it is a Bill for the relief of Protestant Dissenting Clergymen, Schoolmasters, and others, in the affair of Subscription. There are, Sir, several amendments in this Bill which occasion it to differ essentially from that moved for some time since; but before I request leave to bring it in, I should deem it a favour, if any hon. gentleman present would inform me, whether he intends to oppose it, in order that, apprized of such opposition, I may be prepared to obviate the objections made.

Mr. Page. Agreeably to the hon. gentleman's request, I rise, Sir, to announce my intended opposition to the Bill in question. But as the hon. gentleman is pleased to tell us, that it contains several amendments which render it materially different from a former one, it would be absurd in me to oppose those amendments without knowing what they really are. It is true, Sir, I think myself able to guess at them, and am of opinion that when they, as well as the Bill itself, come under the consideration of this House, I shall find no reason to change my sentiments; I believe I shall be as strenuous in my opposition then as I was last year, when a similar matter came before us. However, Sir, let the hon. gentleman be gratified; let the Bill be brought in with his amendments; let it undergo a fair discussion, and though from the tendency of it, I may still continue to oppose, yet to object to the contents of a Bill is one thing, to object to its being brought in is quite another; the latter meets with my concurrence; with respect to the former I have sufficiently declared my sentiments.

A Member. I also, Sir, rise professedly to oppose the Bill in question. I could offer many reasons which to me appear conclusive against the Bill the hon. gentleman proposes to bring in. At the door of this House, a printed paper was put into my hand, containing several striking objections to the Bill. These objections, Sir, are set forth to have been drawn up by a number of dissenters. Now, Sir, if this be the case, it is manifest, that the dissenters themselves are not unanimous in this application to parliament. It is evident that numbers of that body do not think themselves aggrieved in the matter of Subscription; by passing therefore the

Bill proposed, who, Sir, can tell whether we oblige the majority of the dissenters? since, should those objections be drawn up as set forth, it is plain, that the very persons intended to be benefited by this Bill, are the very persons who think they labour under no grievance, and consequently would reap no benefit; nay, the dissenters whom we design to serve, are the dissenters, who, by these objections, declare that such Bill would not serve them. Here is a glaring, a palpable absurdity. And how, Sir, shall we discriminate? How shall we determine on which side the majority lies? This, then, appears to me a very material and substantial objection against the Bill: within doors relief by Bill is intended to be prayed for Protestant dissenters; without, a multitude of Protestant dissenters object to the measures, declaring the Subscription required no burden but what their consciences can easily dispense with, and praying withal, that no such Bill may be brought in. The Bill entitled, "for their relief," according to these objectors, will afford them no relief; they are not aggrieved, consequently want none. Here is then an obstacle with a witness!—But, Sir, my opposition is not merely confined to this head, there are other objections which weigh still more powerfully with me. The established constitution of church, as well as state, ought not to be tampered with; it is and it should be deemed sacred, we should be careful of admitting alterations; lest, by injuring the superstructure, we endanger the foundation. Not that I would hereby be understood as expressing myself disinclined to toleration; I sincerely hope there is not a man in this House more a friend to toleration of every kind, religious toleration in particular, than myself; on which account, if any thing more than has been, can be granted, consistent with the safety of our religious establishment; let it, in God's name, be allowed; but let us be mindful of the tendency of the measure prayed for; let us be mindful of our ecclesiastical as well as civil constitution. With this precaution the hon. gentleman has my free leave to bring in his Bill; for should I oppose it, when brought in, never shall it be said that I object to the bringing in a Bill which, as we are told, breathes the spirit of toleration, and tends to the promotion of religious liberty.

Resolved, "That this House will, upon Monday next, resolve itself into a Com-

mittee of the whole House, to consider of the motion, That Leave be given to bring in a Bill for the further relief of his Majesty's Protestant subjects dissenting from the Church of England."

Feb. 22. The House having resolved itself into the said Committee, leave was given to bring in a Bill for the further relief of his Majesty's Protestant subjects dissenting from the Church of England: and Mr. Harris, sir H. Hoghton, sir G. Savile, Mr. Dyson, Sir W. Meredith, Mr. F. Montagu, and sir Harbord Harbord, do prepare and bring in the same.

March 2. Sir Henry Hoghton presented the Bill for the further relief of his Majesty's Protestant subjects dissenting from the Church of England.

Sir *Roger Newdigate* rose and informed the House, that although he intended to oppose the Bill in every future stage, as well as every other attempt of the same tendency, he would not for the present interrupt or prevent the first reading of it, though he would be well warranted in so doing, first on the general ground of its impropriety, secondly on the resolutions he had already formed concerning it; however, as there were fresh reasons from those on which that of last year was framed, pretended in support of the present application, he was far from not indulging the promoters of the measure with every degree of candour they could possibly wish for. He added, that as he was up and on such an occasion, he could not avoid mentioning a matter which fell from an hon. gentleman over the way (sir W. Meredith) relative to a quotation from a pamphlet written by an eminent and worthy divine, Dr. Tottie, in which, according to his conceptions, the words of his learned and reverend friend were wrested to a meaning directly contrary to the intention of the author, or indeed to their natural and obvious construction. The hon. gentleman having asserted in his speech on the debate of Tuesday, that Dr. Tottie charged some of the doctrines contained in the 39 Articles with horror and blasphemy. Here sir Roger opened the pamphlet, and read the passage referred to, which charged the doctrine of predestination, contended for on rigid Calvinistical principles, with horror and blasphemy, as contradistinguished from the more sober and liberal acceptation, both in practice and speculation, of that

doctrine, as received by the church of England.

Sir *W. Meredith* replied, that it was indeed very true, that he had quoted the doctor, to prove what his sentiments were, relative to the doctrine contained in one of the articles of that church, of which he is so zealous a member and powerful an advocate; and that he appealed to the candour of such as heard him, whether he was not justified in so doing. He was not, he added, enquiring into the practical doctrines of the church, nor of the private opinions of particular persons; neither was he giving any opinion on the different feasible and current explanations of those exceptionable tenets; all he meant by the quotation being only to prove, that predestination, as literally set forth in the Articles, was a doctrine by no means proper to be subscribed to by young persons, as strictly importing what was intended to be hereafter explained away, either to make it consonant to the word of God, or common sense.

Sir *Roger Newdigate* answered, that he was perfectly satisfied with what the hon. gentleman had said, having troubled the House purely with an intention of removing any notion that might prevail abroad, that those were really the doctor's sentiments.

Here the Bill being read a first time, and being ordered to be read a second time on Tuesday, occasioned a warm debate.

Sir *William Bagot* having, after stating his general reasons against the Bill, contended that the time fixed on for reading it a second time was by much too short, first, on account of its importance, and secondly, as he understood that many persons, who were comprised within the description of those who were intended to be relieved by the Bill, were resolved to petition to be heard by counsel against it; that the gentlemen whom the petitioners intended to employ upon that business would on Tuesday next, and much longer probably, be absent on the circuit; and that, in his opinion, therefore, three weeks would be the least time that could be reasonably allowed for that purpose.

Mr. *Dyson* strongly opposed sir Walter. He said, that agreeing to any proposition of this nature would totally defeat the future progress of the Bill; that granting counsel to be heard on such a matter as the present, was unprecedented; that though it had been proper, there was no

one fact stated to the House which could induce them to defer the second reading of the Bill; and that, therefore, they could not break through the regular forms established in such cases to wait for a repetition of grievances neither as yet complained of, nor, perhaps, as much as in embryo or thought of.

Sir *Roger Newdigate* replied, that if the intentions of the promoters of the Bill were as candid as they pretended, he could perceive no possible disadvantage that would accrue from permitting counsel to be heard, and granting a reasonable time for the return of such from the circuit as were likely to answer the desire of the petitioners; and after adverting to some of the transactions of last year relative to the Bill, concluded by prophesying, that the House, who were composed of the representatives of the people of Great Britain, would never refuse to hear counsel in behalf of a cause in which the interests of the established church were so highly and eminently concerned.

Mr. *T. Townshend* then rose, and spoke in support of Mr. Dyson, and took up pretty much the same ground; but having dropped some expressions relative to an enthusiastic spirit, and want of common sense.

Sir *Roger Newdigate* replied, with great warmth, that he flattered himself he was as far from being prompted by a spirit of enthusiasm, as the hon. gentleman who spoke last; and that he doubted not but that on the several questions which came to be discussed in that House, he was as often found on the side of common sense.

The second reading of the Bill was carried for Tuesday next.

March 3. A Petition of a great number of his Majesty's subjects, the Protestant dissenting ministers, and likewise others of his Majesty's subjects dissenting from the church of England, was presented to the House, and read; setting forth, "That the petitioners being informed, application is making to the House for a Bill for the relief of Protestant dissenting ministers, in the matter of subscription, and for the obtaining relief for tutors and schoolmasters; and that the petitioners are well satisfied with the present mode of qualification, prescribed in the Act of Toleration, from a full conviction, in their own consciences, that the Articles of the church of England, as now by law established, are true and important; and con-

sider them as the basis of their hope, and the most powerful incentive to a sincere, stedfast and cheerful obedience, and are contained in the holy Scriptures: and that, by altering the law, it would set aside those essential doctrines contained in the Articles of the church of England, on the faith of which the Reformation was founded, as well as it would become the occasion of dissention and animosity amongst brethren, with whom we wish a continuance of the most cordial harmony; and of weakening, if not dissolving, that pleasing union, which happily subsists between the established church and those who dissent from it: and therefore praying, that the petitioners may be heard, by their counsel, against the said Bill passing into a law; and that they may have such other relief in the premises as the House shall think fit."

Ordered to lie upon the table, until the Bill for the further relief of Protestant dissenters be read a second time; and that the petitioners be then heard, by their Counsel, against the said Bill, upon their petition, if they think fit.

March 10. On the order of the day for the second reading of the Bill, sir William Bagot informed the House that Mr. Perrin, the counsel employed on the occasion, finding the time allotted for his preparation too short, had returned his brief; and that the House might be satisfied as to the cause of his thus acting, he had sent a solicitor to give the House every necessary information. Sir William, in order further to shew the impossibility of any counsel preparing himself in the time, declared that he had seen the brief, which, he said, consisted of a prodigious number of folio sheets. Sir William therefore moved that the hearing of counsel might be postponed for a few days longer, and the second reading of the Bill put off, until the time the counsel could be prepared to plead.

On this motion being made, a debate ensued, and two points were strenuously argued for by the contending parties, the first was 'whether the second reading of the Bill should be postponed until counsel could be heard;' the second, 'whether counsel ought to be heard at all.' Sir Roger Newdigate, though warmly against the Bill, was yet for hearing counsel.

Mr. *Edmund Burke* thought there was a ridiculous impropriety in hearing counsel, because nothing, he said, could be

urged in favour of those who petitioned against the Bill. Here are, said he, a multitude of persons who call themselves Protestant dissenters, whom we do not know, praying to be heard by a counsel, whom we also know not, against others professing their dislike to the mode of Subscription to the Articles; that is, here are a set of men, many of whom cannot write, and they beg leave at your bar to shew cause why others ought to be compelled to subscribe their names. The brief contains a multitude of folio sheets, whether to prolong time, or puzzle the cause, I leave the House to determine; however, I see no cause why the Bill should be postponed.

Mr. Dyson was also against postponing the Bill, and he made several pertinent remarks on the petition itself, the persons who signed it, and the mode of procuring it to be signed. Mr. William Burke was for postponing the Bill for a few days, in order that counsel might be heard. Another member who spoke on the same side, said, he remembered a case wherein the House postponed an affair which concerned itself, because one day the counsel engaged was seized with a pain in his toe; this pain continued, the disorder was day after day communicated to every joint in his body, till at length the patience of several members being wearied out, the counsel on a sudden recovered from his indisposition, and pleaded to the entire satisfaction of his clients. Yet now, when the establishment of the church is at stake, we are not, continued the member, to wait three or four days until the counsel is qualified to plead the cause of the reformation of truth and christianity.

Sir William Bagot having said that the petitioners thought perhaps counsel necessary to shew many parts of the Bill to be contrary to law, Mr. Gray, sir W. Meredith, and others, replied that they hoped no counsel would be suffered to teach the Commons of England from their own bar, the laws of their country. We, said they, who are the legislators and guardians of the laws, to be instructed by counsel, whether a Bill we are about to pass into a law, be, or be not contrary or agreeable to the laws and liberties of our country! This, said they, would indeed be a censure upon the representatives of the people, too gross not to incur the contempt of the public, too shameful to be permitted. With this opinion the Speaker heartily

concurred. Mr. George Onslow next rose, and put an end to the debate, by saying, that though counsel was not heard at the second, they might at the third reading, or when the report was made; but many urged that the second reading was the proper stage for the Bill to meet with every opposition intended, this being perfectly agreeable to precedent, and the forms of the House.

The House was then cleared, and on the motion that the Bill be now read a second time, the House divided. The Noes went forth.

Tellers.

YEAS	{	Mr. Onslow - - -	}	87
		Sir Henry Hoghton -		
NOES	{	Sir William Bagot - -	}	34
		Sir Roger Newdigate -		

So it was resolved in the affirmative.

March 17. The order of the day being read for going into a Committee on the Bill,

Sir William Bagot said:

I rise, Sir, consistent with the principles I have hitherto professed, to enter my protest against the Bill now before us. I shall not, Sir, commence a war with particles; nor shall I contend with any gentleman about the propriety of this or that expression; as whether this House might, should, or ought, to agree to the passing of the Bill. I shall not take up the time of this House about such frivolous trifles, though I have been, and do again expect to be, attacked on this head by an ingenious gentleman, (Mr. Edmund Burke) whose critical sagacity well qualifies him for the task of adjusting sentences, and rectifying the violations of grammatical niceties. I shall request the attention of the House to matters of infinitely greater importance; and whilst I relate the reasons which induce me to oppose the Bill, I shall hope my deficiency in point of elocution may be in some degree atoned for by that sincerity and sense of duty, which, conspiring together, thus prompt me to submit my sentiments to the candour of this House.

To proceed, Sir, with as much regularity as possible, I shall arrange my arguments under a few general heads; I shall trace this Bill, step by step, to the stage at which it is now arrived; I shall shew, that the very thing these dissenters pray for is the very thing they now enjoy; that the

general toleration solicited would be detrimental to Christianity, the established religion of this country; that in times of heathenism the toleration allowed was the occasion of athiests of every denomination overrunning the state: and in like manner if we remove subscription to the Articles, it not being them alone, but the doctrines contained in them, which give offence; that, therefore, Sir, if we set aside subscriptions to those Articles, we throw down the best barrier of Christianity, and open a door for the admission of infidels of every species into the pale of the church.

To begin, Sir, by tracing this Bill step by step. Last year an attempt was made to obtrude a petition on this House, which I am sorry to say, was a disgrace to every party concerned in the measure. I mean, Sir, an indelible disgrace to those persons without doors who set on foot the project. The petition to which I allude is that manufactured at the Feathers Tavern. To the shame of some of the episcopal clergy be it spoken, they were the first who agitated the matter of subscription, and prayed to be released from making the profession of a belief in those Articles which contain doctrines clearly revealed in the scriptures. This petition, Sir, met with the fate it richly deserved; the presenting it answering no other end than that of paving the way for the application this House has been since troubled with. Whilst the tavern petition was under consideration, the promoters were no less busy in publishing a variety of pieces addressed some to particular bishops, others to men of eminence in the church, resident in one or both of our universities. The stile of these publications was various: sometimes intimidations were used, at others the heads of the church beseeched with all humility to relieve those conscientious priests, who, sooner than not enjoy the temporalities of the church, would conscientiously turn occasional conformists to her doctrines, though they wished to be exempted from the necessity of declaring their conformity to any doctrines containing the sum and substance of Christianity. About this time, Sir, another reverend author, willing to promote the pious work of reformation, and to declare his own abhorrence of articles which he had subscribed, and doctrines he had professed to believe, published a pamphlet called *The Confessional*: a work full of sophistry, abounding in language without sentiment, and argument without reason. This also,

Sir, served the cause: the dissenters seized the lucky opportunity, the indignant petitioners joined them, and thus formidable the present Bill was framed, was brought in, and though opposed by the truly orthodox amongst the dissenters, yet counsel was refused to be heard, at least sufficient time was not given them to prepare for arguing the merits of the various petitions which have been presented against it. Now, Sir, I consider this Bill in the same light as the petition from the club at the Feathers; the form indeed differs, the end is the same; and both are detrimental to the doctrinal parts of Christianity.

Nor is the thing prayed for by this Bill wanted. The dissenters pray to be exempted from the necessity of Subscription to the Articles, this is required as a qualification from those who commence teachers, or even school-masters; and penal laws are now in force against such as omit thus to qualify themselves. But, Sir, are these penal laws ever put in execution? Is it not notorious, that the far greater part of the dissenters do neglect subscription? And are they ever called upon? Are they ever punished? What, then, would they have? They desire liberty; they enjoy it by connivance, and are now in as actual possession of the very liberty they solicit, as if their favourite Bill was actually passed. It is absurd, therefore, to pray for that they already possess; nor can any thing account for the absurdity of the request, but a supposition that some latent views, some heterodox tenets are at the bottom of this application.

I will speak out, Sir, I will "cry aloud and spare not" in a case of religious importance; I scorn to dissemble. I say then, Sir, that I verily believe this attempt to set aside the Articles, is agitated with a design unfavourable to Christianity. Instead of the Articles a test is proposed, drawn up in such a vague manner, and couched in such general terms, that a Mahometan might sign it. The dissenters, Sir, are to declare, that they "believe the Holy Scriptures." Pray, Sir, do not Papists in their sense believe the Holy Scriptures? Have not Mahometans a very high opinion of Jesus Christ? And do they not believe many things recorded of him in the Scriptures? They, therefore, Sir, might subscribe the test proposed by the Bill; and whatever opinion I may have, that dissenters are good subjects,

yet as to those who declare that they can conscientiously subscribe only such a test as Mahometans might assent to, I must be pardoned for saying I think them not very good Christians. To tolerate therefore such men, Sir, is to injure the established religion of our country; they are dissatisfied with the Articles, so they are with doctrines which constitute the most essential parts of Christianity. The sacrifice of Christ; the œconomy of our redemption; and in particular the divinity of our Saviour; these, Sir, are the stumbling blocks in the way of our conscientious gentry! yet these are doctrines maintained in Scripture, and inculcated by the Articles; who, then, can wonder, that an effort to set aside the Articles should be made? Arians are numerous amongst us; too many deny the divinity of him who created all things, and “without whom nothing was made that is made.” A test requiring subscription to this truth must be obnoxious to such as disavow it; therefore, Sir, under the notion of toleration, we must lend our aid to an attack upon Christianity, and by passing this Bill, open a passage for heresies the most abominable, which threaten the ruin of our religious establishment.

Sir, in times of heathenism, toleration, because carried too far, became detrimental to the state; Lucretius, a poet of considerable genius, was permitted to broach the atheism of Epicurus; his followers were as numerous as those of any of our modern sceptics; like them, Sir, he made converts; they were the wits, the beaux esprits, the maccaronies of that time. [A laugh through the House.] Yes, Sir, gentlemen may laugh, but the atheists of old were like the sceptics of modern times; they were occasional conformists, and, by being tolerated, they gained proselytes to infidelity, and tore up the foundation of morality by the roots; they broached their cursed opinions, and infected the minds of the people.

In remoter times, Sir, we find, indeed, atheistical sceptics, though from not being tolerated they were restrained from doing the mischief they intended. Epicurus was not the first sceptic; in the times of David and Solomon the sect prevailed. The former king, who was a poet also, tells us, that “the fool has said in his heart” (what the wits of our time scruple not openly to assert,) “that there is no God.” In David’s days, Sir, though persecution prevailed not, yet the sceptics were not al-

[VOL. XVII.]

lowed to debauch the minds of their fellow creatures, by obliging the world with their nefarious opinions. Yet a toleration of this kind is now solicited. But whether we are to shew ourselves so unmindful of our duty as to grant the request, this day’s debate will discover. I, Sir, have borne my testimony against the Bill; I do it conscientiously; I do it with serious reverence; my sincerity has, during the course of the debates on this subject, been called in question; and I could, perhaps, with much greater propriety, retort, by questioning the sincerity of the promoters of this Bill; I have a right, Sir, so to do; and I will say, that the sincerity of the advocates for this Bill stands in need of strong positive proofs; the presumption is against them. I am sure, Sir, I ought to ask pardon of this House for detaining it thus long, and I cannot sufficiently express my thankfulness for the indulgence which has been shewn me. I shall trespass no longer upon your time than to say, Sir, that I am against your quitting the chair.

Mr. *Page*. I think, Sir, after the learned manner in which my hon. friend has argued the matter, little remains to be said. I entirely coincide with him in opinion; and the division amongst the dissenters themselves shews that in numbers the advocates for the Bill are as inconsiderable as they are far from being unanimous. The Chatham petition may convince us of the want of unanimity which prevails, and I am glad to find that we are indebted to the lines of Chatham for a support of orthodox Christianity.

Mr. *Edmund Burke* :*

Sir; the hon. gentleman who favoured us last but one with his learned

* The following report of this Speech, is given partly from the MS. papers of Mr. Burke, and partly from a very imperfect short-hand note taken at the time by a member of the House of Commons. See *Burke’s Works*, vol. 10, p. 22. 8vo edit. 1812.

“I assure you, Sir, that the hon. gentleman, who spoke last but one, need not be in the least fear that I should make a war of particles upon his opinion, whether the church of England should, would, or ought to be alarmed. I am very clear that this House has no one reason in the world to think she is alarmed by the Bill brought before you. It is something extraordinary that the only symptom of alarm in the church of England should appear in the peti-

[3 D]

harangue, had little reason to apprehend, that I should engage him in a war about particles. Whether the House 'might, could, should, or ought' to interfere, I leave to be discussed by more grammatical heads. Neither, Sir, shall I rejoice, with

tion of some dissenters; with whom I believe, very few in this House are yet acquainted; and of whom you know no more than that you are assured by the hon. gentleman, that they are not Mahometans. Of the church we know they are not, by the name that they assume. They are then dissenters. The first symptom of an alarm comes from some dissenters assembled round the lines of Chatham: these lines become the security of the church of England! The hon. gentleman, in speaking of the lines of Chatham, tells us, that they serve not only for the security of the wooden walls of England, but for the defence of the church of England. I suspect the wooden walls of England secure the lines of Chatham, rather than the lines of Chatham secure the wooden walls of England.

"Sir, the church of England, if only defended by this miserable petition upon your table, must, I am afraid, upon the principles of true fortification, be soon destroyed. But fortunately her walls, bulwarks, and bastions, are constructed of other materials than of stubble and straw; are built up with the strong and stable matter of the gospel of liberty, and founded on a true, constitutional, legal establishment. But, Sir, she has other securities; she has the security of her own doctrine; she has the security of the piety, the sanctity of her own professors; their learning is a bulwark to defend her; she has the security of the two universities, not shook in any single battlement, in any single pinnacle.

"But the hon. gent. has mentioned, indeed, principles, which astonish me rather more than ever. The hon. gentleman thinks that the dissenters enjoy a large share of liberty under a connivance; and he thinks that the establishing toleration by law is an attack upon Christianity.

"The first of these is a contradiction in terms. Liberty under a connivance! Connivance is a relaxation from slavery, not a definition of liberty. What is connivance, but a state under which all slaves live? If I was to describe slavery, I would say with those, who hate it, it is living under will, not under law: if as it is stated by its advocates, I would say, that, like earthquakes, like thunder, or other wars the elements make upon mankind, it happens rarely, it occasionally comes now and then upon people, who, upon ordinary occasions enjoy the same legal government of liberty. Take it under the description of those, who would soften those features, the state of slavery and connivance is the same thing. If the liberty enjoyed be a liberty not of toleration, but of a connivance, the only question is, whe-

the hon. gentleman who spoke last, at the support the lines of Chatham have afforded to orthodox Christianity. Whether the walls have defended the lines, or the lines have afforded defence to the walls, is altogether foreign to the debate in ques-

ther establishing such by law is an attack upon Christianity. Toleration an attack upon Christianity? What, then, are we to come to this pass, to suppose that nothing can support Christianity, but the principles of persecution? Is that, then, the idea of establishment? Is it, then, the idea of Christianity itself, that it ought to have establishments, that it ought to have laws against dissenters, but the breach of which laws is to be connived at? What a picture of toleration; what a picture of laws, of establishments; what a picture of religious and civil liberty! I am persuaded the hon. gentleman does not see it in this light. But these very terms become the strongest reasons for my support of the Bill; for I am persuaded that toleration, so far from being an attack upon Christianity, becomes the best and surest support, that possibly can be given to it. The Christian religion itself arose without establishment, it arose even without toleration; and whilst its own principles were not tolerated, it conquered all the powers of darkness, it conquered all the powers of the world. The moment it began to depart from these principles, it converted the establishment into tyranny; it subverted its foundations from that very hour. Zealous as I am for the principle of an establishment, so just an abhorrence do I conceive against whatever may shake it. I know nothing but the supposed necessity of persecution, that can make an establishment disgusting. I would have toleration a part of establishment, as a principle favourable to Christianity, and as a part of Christianity.

"All seem agreed that the law, as it stands, inflicting penalties on all religious teachers and on schoolmasters, who do not sign the 39 Articles of religion, ought not to be executed. We are all agreed that the law is not good; for that, I presume, is undoubtedly the idea of a law, that ought not to be executed. The question therefore is, whether in a well-constituted commonwealth, which we desire ours to be thought, and, I trust, intend that it should be, whether in such a commonwealth it is wise to retain those laws, which it is not proper to execute. A penal law, not ordinarily put in execution, seems to me to be a very absurd and a very dangerous thing. For if its principles be right, if the object of its prohibitions and penalties be a real evil, then you do in effect permit that very evil, which not only the reason of the thing, but your very law, declares ought not to be permitted; and thus it reflects exceedingly on the wisdom, and consequently derogates not a little from the authority, of a legislature, who can at once forbid and suffer, and in the same breath promulgate penalty and in-

tion; but this, Sir, I will take upon me peremptorily to assert, that if the objections to the Bill are founded upon those two contemptible petitions, (that from Chatham and another) which now lie on the table; if they are to furnish the op-

demnity to the same persons, and for the very same actions. But if the object of the law be no moral or political evil, then you ought not to hold even a terror to those, whom you ought certainly not to punish—for if it is not right to hurt, it is neither right nor wise to menace. Such laws therefore, as they must be defective either in justice or wisdom, or both, so they cannot exist without a considerable degree of danger. Take them which way you will, they are prest with ugly alternatives.

“1st, All penal laws are either upon popular prosecution, or on the part of the crown. Now if they may be roused from their sleep, whenever a minister thinks proper, as instruments of oppression, then they put vast bodies of men into a state of slavery and court dependence; since their liberty of conscience and their power of executing their functions depend entirely on his will. I would have no man derive his means of continuing any function, or his being restrained from it, but from the laws only; they should be his only superior and sovereign lords.

“2d, They put statesmen and magistrates into an habit of playing fast and loose with the laws, straining or relaxing them as may best suit their political purposes; and in that light tend to corrupt the executive power through all its offices.

“3rd, If they are taken up on popular actions, their operation in that light also is exceedingly evil. They become the instruments of private malice, private avarice, and not of public regulation; they nourish the worst of men to the prejudice of the best, punishing tender consciences, and rewarding informers.

“Shall we, as the hon. gentleman tells us we may with perfect security, trust to the manners of the age? I am well pleased with the general manners of the times; but the desultory execution of penal laws, the thing I condemn, does not depend on the manners of the times. I would however have the laws tuned in unison with the manners—very dissonant are a gentle country, and cruel laws; very dissonant, that your reason is furious, but your passions moderate, and that you are always equitable except in your courts of justice.

“I will beg leave to state to the House one argument, which has been much relied upon—that the dissenters are not unanimous upon this business; that many persons are alarmed; that it will create a disunion among the dissenters.

“When any dissenters, or any body of people, come here with a petition, it is not the number of people, but the reasonableness of the request, that should weigh with the House. A

posers with weapons wherewith to attack the measure, I fear the combatants must take the field accoutred by no means in a martial manner.

I propose, Sir, to take notice of what fell from the hon. gentleman's lips, (sir

body of dissenters come to this House, and say, Tolerate us—we desire neither the parochial advantage of tithes, nor dignities, nor the stalls of your cathedrals: no! let the venerable orders of the hierarchy exist with all their advantages. And shall I tell them, I reject your just and reasonable petition, not because it shakes the church, but because there are others, while you lie grovelling upon the earth, that will kick and bite you? Judge which of these descriptions of men comes with a fair request—that, which says, Sir, I desire liberty for my own, because I trespass on no man's conscience;—or the other, which says, I desire that these men should not be suffered to act according to their consciences, though I am tolerated to act according to mine. But I sign a body of articles, which is my title to toleration; I sign no more, because more are against my conscience. But I desire that you will not tolerate these men, because they will not go so far as I, though I desire to be tolerated, who will not go as far as you. No, imprison them, if they come within five miles of a corporate town, because they do not believe what I do in point of doctrines.

“Shall I not say to these men, ‘arrangez vous, canaille?’ You, who are not the predominant power, will not give to others the relaxation, under which you are yourself suffered to live. I have as high an opinion of the doctrines of the church as you. I receive them implicitly, or I put my own explanation on them, or take that, which seems to me to come best recommended by authority. There are those of the dissenters, who think more rigidly the doctrine of the articles relative to predestination, than others do. They sign the article relative to it ‘ex animo,’ and literally. Others allow a latitude of construction. These two parties are in the church, as well as among the dissenters; yet in the church we live quietly under the same roof. I do not see why, as long as Providence gives us no further light into this great mystery, we should not leave things as the Divine Wisdom has left them. But suppose all these things to me to be clear (which Providence however seems to have left obscure), yet whilst dissenters claim a toleration in things, which, seeming clear to me, are obscure to them, without entering into the merit of the articles, with what face can these men say, Tolerate us, but do not tolerate them? Toleration is good for all, or it is good for none.

“The discussion this day is not between establishment on one hand, and toleration on the other, but between those, who, being tolerated themselves, refuse toleration to others. That power should be puffed up with pride,

W. Bagot) in a two-fold point of view. The hon. gentleman advanced the following positions,—that the dissenters now enjoyed liberty by connivance, and that toleration was an attack upon Christianity. The honourable gentleman, to be sure, has

that authority should degenerate into rigour, if not laudable, is but too natural. But this proceeding of theirs is much beyond the usual allowance to human weakness; it not only is shocking to our reason, but it provokes our indignation. ‘*Quid domini facient, audent cum talia fures?*’ It is not the proud prelate thundering in his commission court, but a pack of manumitted slaves with the lash of the beadle flagrant on their backs, and their legs still galled with their fetters, that would drive their brethren into that prison-house from whence they have just been permitted to escape. If, instead of puzzling themselves in the depths of the divine counsels, they would turn to the mild morality of the gospel, they would read their own condemnation—O thou wicked servant, I forgave thee all that debt because thou desiredst me: shouldest not thou also have compassion on thy fellow-servant, even as I had pity on thee?

“In my opinion, Sir, a magistrate, whenever he goes to put any restraint upon religious freedom, can only do it upon this ground, that the person dissenting does not dissent from the scruples of ill-informed conscience, but from a party ground of dissension, in order to raise a faction in the state. We give, with regard to rites and ceremonies, an indulgence to tender consciences. But if dissent is at all punished in any country, if at all it can be punished upon any pretence, it is upon a presumption, not that a man is supposed to differ conscientiously from the establishment, but that he resists truth for the sake of faction; that he abets diversity of opinions in religion to distract the state, and to destroy the peace of his country. This is the only plausible, for there is no true ground of persecution. As the laws stand, therefore, let us see how we have thought fit to act.

“If there is any one thing within the competency of a magistrate with regard to religion, it is this, that he has a right to direct the exterior ceremonies of religion; that whilst interior religion is within the jurisdiction of God alone, the external part, bodily action, is within the province of the chief governor. Hooker, and all the great lights of the church, have constantly argued this to be a part within the province of the civil magistrate; but look at the Act of Toleration of William and Mary, there you will see the civil magistrate has not only dispensed with those things, which are more particularly within his province, with those things, which faction might be supposed to take up for the sake of making visible and external divisions, and raising a standard of revolt, but has also from sound politic considera-

treated his subject in a masterly manner, and has displayed a profusion of learning; but whether he has not been too lavish of his erudition, considering the absurdity of the positions, will appear by more fully considering the subject. The

tions relaxed on those points, which are confessedly without his province.

“The hon. gentleman, speaking of the heathens, certainly could not mean to recommend any thing, that is derived from that impure source. But he has praised the tolerating spirit of the heathens. Well! but the hon. gentleman will recollect that heathens, that polytheists, must permit a number of divinities. It is the very essence of its constitution. But was it ever heard that polytheism tolerated a dissent from a polytheistic establishment? the belief of one God only? Never, never! Sir, they constantly carried on persecution against that doctrine. I will not give heathens the glory of a doctrine, which I consider the best part of christianity. The hon. gentleman must recollect the Roman law, that was clearly against the introduction of any foreign rites in matters of religion. You have it at large in Livy, how they persecuted in the first introduction the rites of Bacchus: and even before Christ, to say nothing of their subsequent persecutions, they persecuted the Druids and others. Heathenism, therefore, as in other respects erroneous, was erroneous in point of persecution. I do not say, every heathen, who persecuted, was therefore an impious man: I only say he was mistaken, as such a man is now. But, says the hon. gentleman, they did not persecute Epicureans. No; the Epicureans had no quarrel with their religious establishment, nor desired any religion for themselves. It would have been very extraordinary, if irreligious heathens had desired either a religious establishment or toleration. But, says the hon. gentleman, the Epicureans entered, as others, into the temples. They did so; they defied all subscription; they defied all sorts of conformity; there was no subscription, to which they were not ready to set their hands, no ceremonies they refused to practise; they made it a principle of their irreligion outwardly to conform to any religion. These atheists eluded all, that you could do; so will all freethinkers for ever. Then you suffer, or the weakness of your law has suffered, those great dangerous animals to escape notice, whilst you have nets, that entangle the poor fluttering silken wings of a tender conscience.

“The hon. gentleman insists much upon this circumstance of objection, namely, the division amongst the dissenters. Why, Sir, the dissenters by the nature of the term are open to have a division among themselves. They are dissenters, because they differ from the church of England; not that they agree among themselves. There are Presbyterians, there are Independents, some, that do not agree

dissenters enjoy liberty by connivance! My God! Sir, what sort of liberty is this? A writer (Mr. Hume), whose name has lately been made free with in this House—he, Sir, compares tyranny to a thunder storm or volcano, each moment gathering,

to infant baptism, others, that do not agree to the baptism of adults, or any baptism. All these are however tolerated under the acts of king William, and subsequent acts; and their diversity of sentiments with one another did not, and could not, furnish an argument against their toleration, when their difference with ourselves furnished none.

“But, says the hon. gentleman, if you suffer them to go on, they will shake the fundamental principles of Christianity. Let it be considered that this argument goes as strongly against connivance, which you allow, as against toleration, which you reject. The gentleman sets out with a principle of perfect liberty, or, as he describes it, connivance. But for fear of dangerous opinions, you leave it in your power to vex a man, who has not held any one dangerous opinion whatsoever. If one man is a professed Atheist, another man the best Christian, but dissents from two of the 39 Articles, I may let escape the Atheist, because I know him to be an Atheist, because I am, perhaps, so inclined myself, and because I may connive where I think proper; but the conscientious dissenter, on account of his attachment to that general religion, which perhaps I hate, I shall take care to punish, because I may punish when I think proper. Therefore, connivance being an engine of private malice or private favour, not of good government; an engine, which totally fails of suppressing atheism, but oppresses conscience; I say that principle becomes not serviceable, but dangerous to Christianity; that it is not toleration, but contrary to it, even contrary to peace; that the penal system, to which it belongs, is a dangerous principle in the economy either of religion or government.

“The hon. gentleman, and in him I comprehend all those, who oppose the Bill, bestowed in support of their side of the question as much argument as it could bear, and much more of learning and decoration than it deserved. He thinks connivance consistent, but legal toleration inconsistent, with the interests of Christianity. Perhaps I would go as far as that hon. gentleman, if I thought toleration inconsistent with those interests. God forbid! I may be mistaken, but I take toleration to be a part of religion. I do not know which I would sacrifice; I would keep them both; it is not necessary I should sacrifice either. I do not like the idea of tolerating the doctrines of Epicurus: but nothing in the world propagates them so much as the oppression of the poor, of the honest, and candid disciples of the religion we profess in common, I mean revealed religion; nothing sooner makes them take a short

and certain at some period to burst and scatter destruction on all within its reach. What, Sir, is liberty by connivance, but a temporary relaxation of slavery? Is this the sort of liberty calculated for the meridian of England? Montesquieu places

cut out of the bondage of sectarian vexation into open and direct infidelity, than tormenting men for every difference. My opinion is, that in establishing the Christian religion wherever you find it, curiosity or research is its best security; and in this way a man is a great deal better justified in saying, tolerate all kinds of consciences, than in imitating the heathens, whom the hon. gentleman quotes, in tolerating those, who have none. I am not over fond of calling for the secular arm upon these misguided, or misguiding, men; but if ever it ought to be raised, it ought surely to be raised against these very men, not against others, whose liberty of religion you make a pretext for proceedings, which drive them into the bondage of impiety. What figure do I make in saying, I do not attack the works of these atheistical writers, but I will keep a rod hanging over the conscientious man, their bitterest enemy, because these atheists may take advantage of the liberty of their foes to introduce irreligion? The best book, that ever, perhaps, has been written against these people, is that, in which the author has collected in a body the whole of the infidel code, and has brought the writers into one body to cut them all off together. This was done by a dissenter, who never did subscribe the 39 Articles—Dr. Leland. But if, after all, this danger is to be apprehended, if you are really fearful that Christianity will indirectly suffer by this liberty, you have my free consent; go directly, and by the straight way, and not by a circuit, in which in your road you may destroy your friends, point your arms against these men, who do the mischief you fear promoting: point your arms against men, who, not contented with endeavouring to turn your eyes from the blaze and effulgence of light, by which life and immortality is so gloriously demonstrated by the Gospel, would even extinguish that faint glimmering of nature, that only comfort supplied to ignorant man before this great illumination—they, who by attacking even the possibility of all revelation, arraign all the dispensations of Providence to man. These are the wicked dissenters you ought to fear; these are the people, against whom you ought to aim the shaft of the law; these are the men, to whom, arrayed in all the terrors of government, I would say, you shall not degrade us into brutes; these men, these factious men, as the hon. gentleman properly called them, are the just objects of vengeance, not the conscientious dissenter; these men, who would take away, whatever ennoble the rank or consoles the misfortunes of human nature, by breaking off that connexion of observances, of affections, of hopes and fears,

liberty in an exemption from fear. Are persons who enjoy it by connivance only, are they, Sir, exempt from fear and divested of apprehension? The very Bill before us demonstrates the contrary. Granting that the dissenters do now enjoy a sort of liberty by connivance; a liberty which has this for its dependance is precarious—may exist to-day and be annihilated to-morrow; it therefore creates alarms in the minds of men, and makes them apply, as in the case before us, for a confirmation and establishment of that, the precarious tenure of which renders the possession uncertain.

To talk, Sir, of a connivance, is to talk only of a temporary suspension of tyranny.

which bind us to the Divinity, and constitute the glorious and distinguishing prerogative of humanity, that of being a religious creature; against these I would have the laws rise in all their majesty of terrors, to fulminate such vain and impious wretches, and to awe them into impotence by the only dread they can fear or believe, to learn that eternal lesson—*Discite justitiam moniti, et non temnere Divos.*

“At the same time that I would cut up the very root of atheism, I would respect all conscience; all conscience, that is really such, and which perhaps its very tenderness proves to be sincere. I wish to see the established church of England great and powerful; I wish to see her foundations laid low and deep, that she may crush the giant powers of rebellious darkness; I would have her head raised up to that Heaven, to which she conducts us. I would have her open wide her hospitable gates by a noble and liberal comprehension; but I would have no breaches in her wall; I would have her cherish all those, who are within, and pity all those, who are without; I would have her a common blessing to the world, an example, if not an instructor, to those, who have not the happiness to belong to her; I would have her give a lesson of peace to mankind, that a vexed and wandering generation might be taught to seek for repose and toleration in the maternal bosom of Christian charity, and not in the harlot lap of infidelity and indifference. Nothing has driven people more into that house of seduction than the mutual hatred of Christian congregations. Long may we enjoy our church under a learned and edifying episcopacy. But episcopacy may fail, and religion exist. The most horrid and cruel blow, that can be offered to civil society, is through atheism. Do not promote diversity; when you have it, bear it; have as many sorts of religion as you find in your country; there is a reasonable worship in them all. The others, the infidels, are outlaws of the constitution; not of this country, but of the human race. They are never, never to be supported, never to be tolerated. Under the systematic attacks of these people, I see some

You are desirous of keeping the rod hanging over the heads of the dissenters, at the very instant that you assure them they shall never smart under its stripes. Why, then, Sir, not at once set their hearts at rest by removing the impending danger? Why not release them from the dread of these penal statutes, the cruelty of which so shocks your generous natures, that you think it incumbent on you to declare they never shall be put in execution. The question, Sir, answers itself; and to cavil at its propriety, is to carp at truth, and elude conviction.

Much, Sir, has been urged respecting the want of unanimity amongst the dissenters; but I should apprehend, that the reasonableness of a request, and not the

of the props of good government already begin to fail; I see propagated principles, which will not leave to religion even a toleration. I see myself sinking every day under the attacks of these wretched people—How shall I arm myself against them? By uniting all those in affection, who are united in the belief of the great principles of the Godhead, that made and sustains the world. They, who hold revelation, give double assurance to their country. Even the man, who does not hold revelation, yet who wishes that it were proved to him, who observes a pious silence with regard to it, such a man, though not a Christian, is governed by religious principles. Let him be tolerated in this country. Let it be but a serious religion, natural or revealed, take what you can get; cherish, blow up the slightest spark. One day it may be a pure and holy flame. By this proceeding you form an alliance, offensive and defensive, against those great ministers of darkness in the world, who are endeavouring to shake all the works of God established in order and beauty—Perhaps I am carried too far; but it is in the road, into which the hon. gentleman has led me. The hon. gentleman would have us fight this confederacy of the powers of darkness with the single arm of the church of England; would have us not only fight against infidelity, but fight at the same time with all the faith in the world except our own. In the moment we make a front against the common enemy, we have to combat with all those, who are the natural friends of our cause. Strong as we are, we are not equal to this. The cause of the church of England is included in that of religion, not that of religion in the church of England. I will stand up at all times for the rights of conscience, as it is such, not for its particular modes against its general principles. One may be right, another mistaken; but if I have more strength than my brother, it shall be employed to support, not oppress his weakness; if I have more light, it shall be used to guide, not to dazzle him.

* * * * *

numbers who prefer it, is the thing which ought to determine this House in its proceedings and resolves: for how can the opinions of those who petition militate with any sort of propriety against the Bill? Two bodies of men approach the House, and prostrate themselves at your bar: "We cannot in conscience," say the one, "agree to the tests imposed; we ask not honours; we have no aspiring wishes; no views upon the purple; the mitre has no charms for us; nor aim we at the chief cathedral seats; content to pass our days in an humble state, we pray for the sake of him who is the Lord of Conscience, that our consciences may be relieved from what at present is a burthen; nor that, assuming the garb of hypocrites, we may be longer forced to bear this burthen, or be treated as vagrants for acting agreeably to the dictates of sincerity and internal rectitude." "We, on the contrary," say the men who petition against the dissenters, "We enjoy every species of indulgence we can wish for; and as we are content, we pray that others who are not content may meet with no relief!" What, Sir, shall we say to these reptiles? What, but '*arrangez vous, canaille!*'

Great pains, Sir, have been taken to make us believe that the clergy of the established church are alarmed; but what signs of such alarm have appeared? Has either of the Universities opposed this Bill? Have the church dignitaries petitioned against it? No, Sir; as men, they hold the rights of humanity too dear; and as Christians, they breathe a spirit too tolerant, not to wish a total abolition of the relics of ecclesiastical tyranny. Are we, then, to be dissuaded from granting relief because a petition comes dated from the Lines of Chatham? I should blush to see such a production quoted as authority by which British senators were guided in their decisions.

As to what the hon. gentleman (sir W. Bagot) let fall concerning toleration being an attack upon Christianity; it is an assertion so contrary to truth and history that it scarcely stands in need of refutation. By toleration Christianity flourished; whilst the eastern and western churches were tolerant they were illustrious; they were venerated; they were held in sacred estimation. When the Romish church cast aside its toleration, and betook itself to threatenings, slaughter, and persecution, commotions ensued; ecclesiastic anarchy prevailed; and the

kingdom of darkness was erected on the ruins of Christian charity and mutual forbearance: instead of combating the common foe, Christians fought and combated each other; instead of taking arms against the Grand Deceiver, they strove, by every deceptious art, to harass and torment those whom they ought to have loved as brethren. In short, Sir, the want of toleration has lessened the number of believers: I would have them all united, that they might be the better enabled to make a common cause, and put infidels to a total rout. These, Sir, are the men; these sceptics are the persons against whom your penal laws should be directed; they are monsters actually destructive; yet you let them escape; you clip not their broad pinions, whilst you tear piece-meal the silken wings of some feeble harmless insect who falls into your clutches.

Away, Sir, with such absurdity! The sceptics, who labour to degrade us below the brutes; the sceptics, who would fain persuade us that we are inferior to those animals which wallow in a sty; the sceptics, who sap the foundation of all morality and social virtue; who daringly attempt to plunder us of the dearest privilege annexed to manhood, that of being a religious animal; the sceptics, who, by ridiculing revelation, set at nought the various dispensations of the Godhead to his creature man: these, Sir, are the Pythons against whom Christians should be armed; but amongst themselves toleration cannot be carried to too great a length; nor is there any danger that Christianity should suffer by such a toleration. Ask you what is left to defend it? I answer, the strongest defence imaginable; the learning, the wit, and the genius of its advocates. To whom has Christianity been most indebted for the completest victory it ever gained over the whole body of deistical writers? To a man who never did, nor I am sure ever would have subscribed the Articles. The learned writer I allude to is Dr. Leland, who, in his "*View of the Deistical Writers*," has rendered Christianity an essential service, if so divine a system could receive assistance from mortal hands.

Sir; as to the toleration afforded by heathenism, I am yet to learn that it went so far as the hon. gentleman seems to think, for those who were admitted within the pale of the heathen church were at least required to assist in the performance of the religious rites, those to Bacchus,

and some others. Such a conformity was necessary, and perhaps in every establishment it is the only conformity the magistrate has a right to exact; for I take the reverse of our mode of proceeding to be the just one; the constraint should be put not so much upon the doctrinal as the ritual part of religion, a conformity in the latter being the chief thing requisite for the support of a religious establishment connected with the state. But, Sir, the toleration the learned gent. speaks of as exercised towards the Epicureans, proves nothing to the purpose; for being atheists, and believing nothing, they would have subscribed to any and every thing; persecution, therefore, would not have reached them; nor would any articles, any human tests, how well soever contrived, have kept them as they ought to have been kept, distinct from the believing part of their species.

I trust, Sir, I am penetrated with as deep a sense of the benefits derived to us from the birth of a Saviour as any man within these walls; I trust I would go as far as any man in maintaining the essential articles of Christianity; I also fancy, Sir, the Church of England has not a firmer friend than myself; I wish her illustrious; I wish her head may reach that heaven to which she would conduct us! But I would also wish her family as numerous as possible; I would wish a brotherly affection to prevail amongst her offspring; I would have Christians united; I would have them join in every attempt to crush the powers of darkness, and trample under foot the foe to God and man. Like a mother tender of her children, I would have the church, with wide extended arms, clasp to her bosom her believing sons; nor by unnatural austerity repudiate her offspring, and tempt them to seek for ease, for pleasure, and for comfort, in the harlot lap of infidelity.

Sir Roger Newdigate:

I am as much for toleration as any man in this House, and cannot think the dissenters have cause to complain for want of it. In every well governed state there must be bounds set to toleration; and when those bounds are marked and known, those who will not confine themselves within their limits have no reason to plead for their extension. No man surely will contend for a toleration detrimental either to the church or state. No man in this kingdom is debarred the right of private judgment in matters of religion,

provided he broaches no doctrines by which the foundations of morality and civil government are affected. Every Protestant publicly exercises without controul the privilege of worshipping God in what manner he thinks is most acceptable. And greater toleration no man, whose views are purely spiritual, can wish. I am therefore, at the same time that I profess myself a friend to legal toleration, entirely against innovations. The nation is happy in an established church, and an established form of government, and I frankly own I am for admitting no alteration in either.

Sir W. Bagot again rose, and said he would make a proposal to the advocates for the Bill, which was, that previous to going into a committee, they should point out such books of scripture as they deemed canonical. On this

Sir W. Meredith said:

The hon. gentleman's proposal tempts me to relate to him a story. Archbishop Tenison conceived a design of beginning a reformation in the Liturgy. Previous to his putting it in execution, it was proposed to him to reject either the book of Bel and the Dragon, or the book of Daniel, out of the number of the canonical books, it being impossible for the stories contained in both to be true. So far, Sir, in answer to the gentleman's proposal.—By way of retort to several invidious reflections, which during the course of this day's debate have been cast upon the petition I had the honour to bring in, I shall only say, that I am content to suffer, in common with those concerned, every species of disgrace arising from the measure. Sir, the sincerity of some of the gentlemen who signed that petition has been reflected upon; I shall say but one word in answer to the reflection. One gentleman who signed the petition (*Dr. Chambers*) has lately refused as considerable a promotion as any private man need wish for, because, consistently with his principles, he could not subscribe the Articles.

Mr. Duntze and *Mr. Grey* next spoke in favour of the Bill; and, in the course of the debate, an assertion having fallen from one of the members, that there was now no occasion to repeal or set aside such of the penal laws as affected the dissenters, because they were not put in execution,

A Member said.—Sir; as I understand

the case, there are but two periods wherein a law can be repealed, or set aside; the one is when its grievance is generally complained of and felt, the other when it lies dormant, and is not deemed fit to be put into execution. The temper of the times, Sir, must always be considered: would it not have been folly to have talked of repealing the statute *De Heretico Comburendo* in the days of queen Mary? Would it not have been folly to have talked of repealing the statute by virtue of which old women, supposed to be witches, suffered death? We know that there was a time when it was universally believed that a poor old woman could bewitch people, and fly across the air on a broomstick. We also know that so conscientious, so worthy a man as lord Hale, condemned a woman to death who was arraigned for witchcraft. When a doctrine is believed, however erroneous, then is not the time to talk of repealing such laws as relate to it. With respect to the dissenters, to say that they enjoy a liberty by connivance, is to say they scarcely enjoy any liberty at all. The Hugonots in France are connived at; their ministers preach publicly to them, but they do it at their peril, for the state may hang them for so doing, and the policy of the court is their only indemnification.

Mr. *George Onslow*. Sir, I only rise to rectify a mistake which several members may labour under, relative to the persons who signed the petition from Chatham. They are not what they call themselves, either ministers or dissenters; they are harmless Methodists, at the head of whom is one captain Joss, who preaches in the Tabernacle, Tottenham Court; but, as his name was so well known, fearing a discovery, he would not venture to sign the petition; neither, Sir, are these persons ministers regularly ordained, either in the Presbyterian or Episcopal way; they feel a call within to preach the Gospel, and hence give themselves the appellation of ministers.

A Member having asserted, that the "dissenters themselves required the youth in their academies to subscribe a certain test;" sir H. Hoghton assured the House, that the assertion was false; for that such a measure was adopted at only one dissenting academy, the master of which had signed the petition against the Bill.

The question being put, that Mr. Speaker do now leave the chair; the House divided. The Noes went forth.

[VOL. XVII.]

Tellers.

YEAS	{ Mr. Charles James Fox	} 69
	{ Sir Henry Hoghton -	
NOES	{ Sir William Bagot - -	} 16
	{ Mr. Page - - - - -	

So it was resolved in the affirmative.

March 25. Petitions from the ministers and congregations of Protestant Dissenters residing in and near Liverpool, at Bolton in Lancashire, at Exeter, at Dursley, and Wotton-under-edge in Gloucestershire, were presented to the House and read; setting forth, That as a Bill was depending for an alteration to be made in subscription to the Articles of the church of England, which, if passed into a law, they apprehended would undermine the establishment of religion in this kingdom under the Act of Toleration; they therefore prayed, that the said Bill might not pass into a law. After these petitions were read, and ordered to lie upon the table,

Mr. *Chambers*, the Vinerian professor at Oxford, was called in, being the counsel appointed to plead against the Bill. The purport of the arguments which he alleged in favour of his clients was as follows:

He laid down this position, that the magistrate had a right, nay, that it was his indispensable duty so far to exercise his authority in matters of opinion, as to take care that no tenets should be broached subversive of the peace and order of the state. He contended, that a man was at liberty to entertain what opinions he pleased, though not at liberty to propagate those opinions, if erroneous; and therefore he urged the necessity of some human tests, as a security to the magistrate previous to a license being granted, whereby a person was qualified to commence public teacher. This naturally led to an investigation of the test proposed by the friends of the Bill, as a substitute for the subscription at present required to the Articles. The counsel in consequence read the test, which is as follows: "I, A. B. declare, that I am a Protestant, and that I do most sincerely believe the doctrines contained in the Holy Scriptures." On this test the counsel remarked, that being a Protestant might mean no more than that a man was not a Papist. To prove this, he gave Bayle as an instance: when Bayle was asked by a cardinal, what religion he really professed, "I am, replied he, a

[3 E]

Protestant; for I protest against all that is doing, and I dissent from every thing that is done."

With respect to declaring an unfeigned assent to the Holy Scriptures, this he said was a most vague, unsatisfactory, and jesuitical declaration; for, until the gentlemen declared what were the precise names of the books comprehended under the term of the Holy Scriptures, until this was done, a Mahometan, he said, might subscribe the test with as much propriety as any Christian amongst us. He instanced the case of the Socinians, with whom a Turkish ambassador, in the reign of Charles 2, had declared his entire agreement. As to what might be called the Scriptures, he said, that it was notorious the Samaritans acknowledged only the Pentateuch, or five books of Moses; and that there had scarcely been an epistle, nor even gospel, now admitted into the canon of Scripture, but what had formerly been questioned as to its authenticity. As surreptitious gospels had been spread abroad, and divers *pia fraudes* had been committed by former heresiarchs of various denominations, and as practices dangerous to society had been occasioned by an allowance of forgeries for genuine scripture, or a wrong interpretation of books, the divine authenticity of which there was every reason to believe; as this had been formerly the case, it rendered it now peculiarly necessary, previous to the admittance of so vague a test as was proposed, to know what canon of Scripture the gentlemen admitted as divine, and proceeding from the all-perfect Author of Truth.

Mr. Chambers then quoted the assertion of Chillingworth, "that the Bible was the religion of Protestants;" and from a short sketch of certain religious wars, carried on in Germany and elsewhere, he inferred the liableness of zealots to pervert the true sense of Scripture, and foist it in as a supporter of their absurdities, and abettor of their erroneous practices. From the same Bible a Quaker will reject all sacraments, and a Papist will believe in seven; one man will prove the divine right of kings, another will plead for the extirpation of monarchy; some would contend for the dominion of grace, in which the righteous only were entitled to the property of the earth; others would infer, from apostolic example, that all things should be held in common. As an instance of the absurdity of leaving men to be the carvers not

only of a religion for themselves, but of a religion for others also, Mr. Chambers quoted an anecdote, with which the celebrated bishop Berkeley favoured the world. "There were a father and two sons, who, dissenting from all establishments, were determined to found a church of their own. They at first were perfectly agreed in their religious tenets; but in a little time differed, the father from his two sons, and the two sons from each other. In consequence of this dissention, they became implacable enemies, each quoting the Bible in support of his opinions, and each uttering the bitterest reproaches against the other for not believing the Scriptures." Now here, said the counsel, was the consequence of a departure from human tests! Instead of founding one church, the thing first intended, here were 'quot homines tot ecclesiae.'

He contended, that as the advocates for the Bill refused to subscribe the Articles, it was a presumptive proof that they disbelieved them; and as the Articles were allowed to contain a transcript of the essential doctrines of Christianity, a stronger presumption lay against the gentlemen not believing some of the essential doctrines of Christianity. He instanced that of the ever-blessed Trinity, upon the acknowledgement of which, he said, the acknowledgement of the whole scheme of our redemption was founded.

Mr. Chambers next observed, that though, after touching upon a subject in itself so tremendous, it might not seem proper to descend to an affair concerning human property; yet he begged leave to mention, that there was a case wherein, should the Bill pass, the Protestant dissenters, who petitioned against it, might be deprived of a bequest to the amount of 500*l*. One Mr. Coward, it seems, having left that sum as an annual legacy, to certain persons, to defray the expences attending the instructing and educating a certain number of youth in the religious principles held by those Protestant dissenters who subscribed the Articles. He then recapitulated the foregoing arguments, and laying before the House a concise summary of the whole, he deduced as a consequent, that the Bill ought not to pass; and concluded with this quotation from Cicero, '*Idem velle, atque idem nolle, ea demum firma amicitia.*'—After he had withdrawn,

Sir H. Hoghton went over his former ground, but stepped aside to remark, that to

his knowledge the persons who signed the petitions were not Protestant dissenters, but Methodists, who even would not have petitioned against the Bill had not they been misinformed as to its tendency and design, which they were taught was a scheme projected to set aside the Articles. Sir H. to convince the House that some of the petitioners were not what they called themselves, Protestant dissenters, said, that one of the petitioners was a drummer in the Northamptonshire militia, who occasionally exercised his talents by beating a tattoo upon a pulpit instead of his drum-head. Sir Roger Newdigate spoke against the Bill, and said he hoped it would never pass the upper House.

Sir *George Savile* spoke in favour of the Bill. Talk not to me, said he, of your metaphysical niceties and scholastic distinctions; away with such pedantic stuff! a single expression dropped from the lips of the Founder of our Faith, is worth all the homilies, all the articles that the wit of man can compose. Read, read that single Sermon delivered on a Mount, and learn from thence the doctrinal parts of your religion; peruse the Parable of the good Samaritan, catch the pious flame, and clasp to your arms each Christian as your brother.

Lord John Cavendish spoke also in support of the Bill. Sir W. Bagot contended that the advocates for the Bill should declare what number of books they ranked amongst the canons of Scripture; for, concluded he, as a Christian I think it my duty to assent to no law injurious to Christianity, and as a legislator I think it proper to know the law to which I give my assent.

Sir *William Dolben* spoke also against the Bill, and said, that he admired the Sermon on the Mount as much as any man, but that he trembled for the fate of that Sermon, should the Bill pass; for there might come a time when the Scripture which contained it would be struck off the list of divine writings; but indeed, concluded he, we are told that the gates of hell shall not prevail against the church; so that it is not any foolish acts which we can pass that will destroy the validity of that sentence.

Mr. *Page* said, that if a dread of the penal laws was the only thing that incited the dissenters to bring in the Bill, he would readily agree to have such laws repealed, which would remove the evil without injuring the established religion.

Mr. Conway replied in behalf of the Bill, as did also Mr. T. Townshend. The question being called for,

Sir *W. Meredith* begged the indulgence of the House for a few moments; he said that since an hon. member had expressed his wish that the Bill might be thrown out in the upper House, he would read part of a paper delivered that day into his hand; it contained, he said, a sentence which the bishop of London let fall last year when the Bill was thrown out; the sentence was as follows: "Liberty by law is an excellent thing, but lawless liberty is a curse." Now, said Sir William, as the liberty the dissenters now enjoy is by connivance and not by law, it comes under the definition of lawless liberty, and therefore, according to the prelate, is a "curse," from which curse this Bill means to relieve them.

Sir *H. Hoghton* then, in a modest yet manly speech, politely thanked the House for the attention with which he had been heard, and the indulgence which had been shewn him through every stage of the business. This concluded the debate, and the question being put, That the Bill do pass; the House divided: the Yeas went forth:

Tellers.

YEAS	{	Mr. Onslow - - - -	}	65
		Sir Henry Hoghton - -		
NOES	{	Sir William Dolben - -	}	14
		Mr. Page - - - -		

So it was resolved in the affirmative.

The Dissenters Relief Bill rejected by the Lords.] April 2. On the motion to commit the Bill, a debate arose. The speakers in favour of the Bill were the duke of Richmond, lord Mansfield, lord Camden, the earl of Shelburne, and lord Lyttelton; against it, the earl of Denbigh, lord Bruce, earl Gower, bishops of London and Peterborough, the Lord Chancellor, earl of Suffolk, duke of Grafton, and bishop of Landaff. The duke of Grafton made great concessions in its favour. Upon the division, the contents were 26, non contents 65, without proxies; including the proxies, contents 28, non contents 86. The peers who divided for the commitment were, the dukes of Richmond, Devonshire, Portland, Manchester, Northumberland, Athol, and Newcastle; marquis of Rockingham; earls of Coventry, Tankerville, Talbot, Hardwicke, Besborough, Buckinghamshire,

Northington, and Shelburne; viscounts Say and Seale, and Torrington; lords Despencer, Romney, Lyttelton, Mansfield, Camden, Trevor, and Milton; and the bishop of Lincoln. The two proxies were earl Fitzwilliam and lord Archer.

Debate in the Commons on Mr. Dowdeswell's Bill for the Relief of the Poor in Old Age.] March 5. The order of the day being read, for the third reading of the Bill, for the better support of poor persons, in certain circumstances, by enabling parishes to grant them annuities for life, upon purchase, and under certain restrictions,

Mr. Calvert said: Sir, I rise to oppose this Bill upon the same principles which induced me to object to it at first; and notwithstanding the motives of the hon. gentleman who has brought this matter before us are unquestionably humane, yet I am persuaded, it will not answer the end he expects it will. If it has any effect, it will have a bad one; but I do not think it will have any; I am sure it cannot have a good one. It will encourage idleness, and be serviceable only to drones; it will bring the country people acquainted with the funds; a knowledge which, above all others, I never wish them to have; it will bring them acquainted with Exchange-alley and brokers, the worst people they can possibly be acquainted with; and the parish officers, churchwardens, and overseers, tempted by the prospect of a rise of stocks, will make use of the money in their trust; and their having occasion for attornies and agents, will produce, Sir, such a train of mischief, as must infallibly terminate in their ruin: besides, Sir, the age itself is an insurmountable objection. At fifty for men to give up their employments, and rest themselves under the comforts of an annuity! Sir, the state requires service at their hands after they have arrived at that period; and I am sure there are many of us in this House who have passed that age, that are not impaired either in our mental or intellectual faculties. (Here the House laughed). I do not mean to treat this subject ludicrously, but seriously to object to it, and wish gentlemen would attend to it before they suffer it to pass into a law.

Mr. Morton spoke also against the Bill. He said it was vesting too great a power in the hands of church-wardens, overseers, &c. and that polls in abundance would be taken, and no one good would ensue.

Mr. Dowdeswell, in support of his Bill, replied in a very masterly manner. He stated the efficacy and general advantages of the Bill; that, instead of encouraging idleness, it would produce a laudable industry; that it would relieve the distress of old age, and be a comfortable resource for the poor and honest man; that he did not boast an extraordinary share of humanity in his temper, but his disposition was ever to alleviate distress; and that he had repeatedly seen, with anxiety and concern, old men with families obliged to work six or eight hours in a continual rain; that those men were continually subject to the different changes of the weather; and that the profligate and abandoned would not avail themselves of this law. He then entered into the impropriety of opposing the Bill in its last stage. He said, that he had moved it before the holidays, on purpose to give gentlemen time to consider, and make themselves master of the subject; that it had hitherto been the custom of parliament, to make the objections on the second reading; and that it would have been more candid and generous in the gentlemen to have done so in the present instance; that one of them attacked it on the report, the other at the conclusion, and which he did not look upon to be fair treatment.

A Member. Sir, I will not detain the House five minutes; I shall only ask the hon. gentleman one question, and which will go to the very root of his Bill. I am, like him, Sir, a landed gentleman, and have nothing else to subsist upon. I should not like to have my estates charged with a perpetual mortgage; and I beg to know, if any of the purchasers of those annuities should sell their annuities, whether they will not become chargeable to the parish?

Mr. Dowdeswell. Sir, the man who buys an annuity has certainly a right to dispose of it, and it would be injustice to abridge him of that right. As to their becoming chargeable to the parish, neither the hon. gentleman nor myself can pretend to say; but would they not, if they had not purchased an annuity, be equally chargeable, and subject to become burthensome to the parish?

A Member. Sir, I cannot discover one good effect in this Bill, which is infamous; (I do not mean, Sir, to throw the least reflection upon the hon. gentleman, whose benevolent intention cannot be too much commended) but I assert, Sir, this Bill

is big with mischief of a serious nature ; and I am sure every landed gentleman will oppose it.

Mr. *Gilbert*. Sir, the distresses of the poor are become so great, and provisions of every sort so extravagantly advanced, that I am heartily glad whenever I hear of any measure likely to relieve them in the remotest instance. This Bill, Sir, is intended for a very humane purpose, and I am sure will have every good effect, without one bad one. I could wish, Sir, we could strike at the very root of an evil which most of all contributes to the ruin of the laborious poor ; and that is, the licensing of ale-houses. I am sure, Sir, as far as my assistance will help, I will cheerfully attend. I have, with the advice and assistance of several other gentlemen, drawn out a plan which I am in hopes will be ready to present to the House this session ; and I sincerely wish it may produce the end desired.

Mr. *H. Cavendish* was glad to hear such a thing was in agitation by the hon. gentleman ; and hoped he would pursue it, as ale-houses were great nuisances, and ought to be put under some proper regulations.

The question was then called, and the House divided. The Noes went forth.

Tellers.

YEAS	{	Sir Charles Bunbury -	}	62
		Mr. Whitworth - - - -	}	
NOES	{	Mr. John Calvert - - -	}	34
		Mr. Nich. Calvert - - -	}	

So it was resolved in the affirmative, and the Bill was passed.

Debate in the Commons on a Motion for a Bill to prevent Stock-Jobbing and other Gaming.] March 11. The Act of the 7th of George 2nd, intituled, An Act to prevent the infamous practice of Stock-Jobbing ; and also the Act of the 10th of the said king to make the said Act perpetual, having been read,

Mr. *Prescott* rose and said :

Sir ; since gaming has become the prevailing vice of the age, I think it the duty of this House to discourage it by all possible means. And, Sir, it is peculiarly necessary that some immediate stop should be put to the most pernicious and infamous species of gaming, that of stock-jobbing. It has arisen to such an enormous height, that it is impossible to tell what mischief it has already done, or where it will end. The Act against stock-

jobbing was framed by a man universally beloved and admired (Sir John Bernard.) May the city always be represented by men of his abilities and integrity. And it may perhaps, Sir, be thought unpardonably presumptuous in me to attempt an amendment of a Bill formed by a man so superior ; but I hope the goodness of my intention will apologize for the deficiency of my abilities. As to dice and cards, the fashionable entertainment of all polite people, I will leave them to the laws of the land as they now stand, and will not detain the House any longer, than to move, " That leave be given to bring in a Bill to explain, amend, and enforce, the several laws now in being, for preventing the infamous practice of stock-jobbing, and other species of gaming."

Mr. Alderman *Oliver* :

Sir ; I heartily approve of the motion of the hon. gentleman, and sincerely wish a stop may be put to a practice as infamous as it is dangerous. The pernicious practice of stock-jobbing, Sir, has attained to such a height, that the jobbers meet you at your very door, and desire to know whether you will be bull or bear. Sir, all ranks and denominations of men have got into this method of stock-jobbing ; the very lowest class of tradesmen : and hence we may, in a great measure, account for the many bankruptcies which are continually happening. As I am up to second the motion of the hon. gentleman, allow me to acquaint the House of another practice equally detestable, which prevails, to the scandal of our laws and of humanity : I mean, Sir, insurance on lives. If a member of either House of parliament is known to frequent a coffee-house, and seen to walk lame, or appear in a great coat, a policy is immediately opened, to the amount of 30 or 40,000*l.* on his life ; and it may perhaps be the interest of those concerned, to murder him. I do not affirm that this is positively the case ; but, Sir, if the person on whom a policy is opened should be attended by either a poor physician or apothecary, and many such there are, it would be an easy and safe manner to destroy the man ; as, under the pretence of curing or alleviating his disorder, something may be given either to destroy directly, or injure his health beyond a possibility of recovering. This, Sir, is continually done ; and men indigent to-day, are, to the surprize of every body, possessed of fortunes to-morrow. I

rose, Sir, not only to second the motion of the hon. gentleman, but to express my wish, that a clause may be added to his Bill, to restrain and prohibit so infamous and villainous a practice.

Mr. Thomas Townshend :

Sir; I am happy to find a gentleman has at last undertaken to restrain the practice of stock-jobbing. It is well known, Sir, the great blow which credit has received, and the low state which it is in at present. The late failures, of which there have been so many, but which I hope to God are at an end, have been occasioned by this infamous practice. Many gentlemen who have thought themselves worth money, were of a sudden ruined by those pests to society, stock-brokers. The profession, Sir, formerly respectable, is now become contemptible; and men have raised fortunes from nothing, and then broke; and I entreat you to reflect on the distress which must accompany it, and on the numbers unhappily involved in their ruin. It is, Sir, our duty to discourage this practice; and I, with great cheerfulness, second so laudable a motion.

Mr. Alderman Hopkins :

Sir, although I believe there will not be a dissenting voice to the motion of my hon. friend, and that the House will ever readily attend to the discouragement of stock-jobbing, which I acknowledge is carried on to an amazing excess; yet, Sir, I cannot help saying a few words in answer to the hon. gentleman over the way, who seconded the motion.

In the former part of my life I dealt in stocks; but I blush to own the practice at present is widely different to what it was; it was at that time conducted by a set of men who did honour to the profession; and there were none of those infamous practices which the hon. gentleman very justly complains of. As to insuring of lives, I do not altogether agree with the hon. gentleman. I remember, Sir, when the business of underwriting was respectable, and underwriters were men of fortune and reputation. I have sometimes written for considerable sums, but then it was on a fair, equitable and legal footing, and in the most open manner. I wrote one the other day. Application was made to me by a member of a club; if he lived a year and a half longer his wife would be entitled to a comfortable annuity; he had advanced a sum of money

for that purpose, and wanted to secure it, that the widow might not be left destitute. I examined, and found he was in good health; it was a fair and open proposal, and I accepted of it. The practice of insuring of lives is of vast benefit and utility to individuals. An insurance of the nature above stated, was not only justifiable but necessary. I have, indeed, known instances of insurances on the very principles the hon. gentleman condemns; one of which occurs to me at present. Some short time past a policy was opened on a man who was himself entirely ignorant of the transaction; and when he was acquainted with it about six or eight months after, it took such an effect on him that he never recovered; and it was the declared opinion of Dr. Fothergill, who attended him, that the insuring of his life was the cause of his death.

Here the House laughed heartily; and the question being called, it was agreed to, without a division.

Debate in the Commons on a Motion for a Committee on the State of the Linen Trade.] March 17. Lord Frederick Campbell acquainted the House, that he had a matter of the most serious consideration to impart, and on which he intended to make a motion, and therefore begged the attention of the House for a few minutes. He stated, that, from the best accounts he could procure, the linen trade of Great Britain and Ireland had increased most prodigiously for the last 20 years, previous to 1770; that in Ireland, the number of yards made for sale had more than doubled, and in Scotland it had risen from 6 to 13 millions annually; that, in England, the increase and improvement of the manufacture could not be so well ascertained, as the mode of marking and stamping the linens was not adopted; but it was generally computed, that there was as much linen cloth made here as in Ireland and Scotland put together; therefore, it was an object which equally concerned them all; that, however, the flourishing state of the linen trade had suffered a very alarming reverse since the year 1770, which could be only accounted for by the great encrease, of importation of foreign linens, on an average, in the two last years, amounting to four millions of yards each year; and that the evil promised daily to encrease from the migrations that were constantly making from Scotland and Ireland to America, which

threatened the total ruin of that manufacture in those countries. He remarked, that this being the appearance, upon a cursory view of the subject, he meant to make a motion, That a Committee be appointed to enquire into the state of the Linen Trade.

General Conway seconded the motion.

Mr. Prescott observed, that any measure which might tend to affect a great and extensive commerce, as well as our leading manufacture, the woollen, should be carefully avoided, which must be the case in the present instance, if any resolution, formed on the present enquiry, should be made, which might lay an additional duty on foreign linens. In such a case, he said, one inevitable consequence would be, a total prohibition of our woollen cloths in several parts of Germany: that that must consequently cause the ruin of the woollen manufacture, the great staple of this country; and as a proof of what he advanced, he appealed to the conduct of the king of Prussia, the last time an additional duty was laid upon the manufactures of his country, the Silesia lawns.

Lord North said, he believed there was a great deal of truth in what the hon. gentleman who spoke last had advanced, that any measure, which might affect at once our great leading manufacture, our foreign commerce, and the public revenue, ought to be considered with all imaginable attention, and treated with the utmost delicacy; that, in his opinion, the noble lord's proposition came much too late in the session, if he meant that the House should come to any resolution on it this season; that, considering the extent of the enquiry, and the variety of important matter involved in it, it could come to no resolution sooner than the end of three months, which would be much too late for the House to come to any decision, as the session would then be almost at an end. [Here some of the country gentlemen shewing a dislike of this piece of information, his lordship corrected himself by saying two months, and proceeded.] He observed, that it was a point on which many persons had been misled of late years, to impute the decline of certain manufactures and branches of commerce to extrinsic causes, when, by a little observation, it would be found they were in a great measure incident to their very nature, and were a natural consequence of their precedent prosperity; that this misapprehension was the cause of many im-

proper applications to parliament, a number of which had been rejected, however, not without wasting the time of the House, and drawing off its attention from matters of real consequence, while others have been mistakenly adopted; that among some that had met the latter fate, he should mention the silk manufacture, which, from a variety of temporary causes, at once rose to a magnitude and prosperity, which as soon as they ceased seemed to indicate a decay, that was no more than that trade tending to contract itself to its former channel. What was the consequence of this? continued he. Why, the people immediately interested in this branch suddenly gave the alarm, the nation received it, all foreign silks were prohibited, the revenue suffered considerably, and the miserable weavers in Spital-fields are now prevented from starving by charitable donations, and the daily subscriptions of well disposed persons, when a very little observation would have taught people, that the amazing encrease of the silk manufacture was chiefly owing to the advantages arising from a long and successful war, which included likewise an incidental prohibition of almost all foreign silks. His lordship concluded by remarking, that those general ideas should always prevail whenever any proposition was made for encouraging any manufacture beyond a certain extent, or for endeavouring to support it in any state of temporary or accidental prosperity it might have attained, when the cause which gave rise to them no longer existed; and though he would not be against agreeing to the appointment of the proposed committee, he entered his protest, for the reasons before assigned, against coming to any resolution relative to the object of the enquiry this session.

Mr. Pulteney replied, that the noble lord who spoke last, and the hon. member who preceded him, seemed to lay great stress on the pre-eminence the woollen deserved when compared to the linen manufacture; that he doubted not but when those, who meant to undervalue the latter, gave it the second place in point of national importance, it might well be entitled to the first; that as to the implied comparison between the linen and silk manufacture, and the inference designed to be drawn from that comparison, they were totally inapplicable on the present occasion; that the latter was known to be a downright monopoly, confined to a par-

ticular part of this town, and, comparatively speaking, conducted by a few; whereas the other was carried on upon the most liberal principles, under the wisest and best planned regulations, and was diffused through almost every city, town, village, and district in four fifths of Great Britain and Ireland; that as to the objection relative to disobliging the German and northern powers, and thereby hurting our woollen exportation, such ideas would not have surprised him in the reign of the late king, who was himself a German, and was known to have a predilection for Germany, and to be alarmed at any thing which might tend to offend his neighbours on the continent, on account of his hereditary dominions; but in the reign of his present Majesty, who has "gloried in the name of Briton," and who piques himself so much for disclaiming every attachment and connexion of that kind, he was sorry to hear such sentiments avowed by any person who was supposed to have his Majesty's confidence; and that, allowing every argument that might be built on the supposition that the northern powers would be offended, did the noble lord or his friends pretend to say that Prussia, or any other power, would or could prevent the woollen manufactures of Great Britain from getting into their dominions through some channel or other, if they were of a superior quality, and considerably cheaper than those of other countries?

The motion was then agreed to.

Propositions of the East India Company for a Loan.] March 2. A Petition of the united company of merchants of England, trading to the East Indies, was presented to the House of Commons, and read; setting forth,

"That the petitioners, finding themselves under the necessity of applying to parliament for relief, hope they shall be esteemed worthy of the same, in the manner specified in the Propositions following:

"That an application be made to parliament, for the loan of 1,500,000*l.* or so much as shall be wanted, by instalments, for four years, at 4 per cent. per annum, with liberty of repaying the same, as soon as the Company may be able, by payments of not less than 300,000*l.*; and that the Company shall not divide more than 6 per cent. per annum, from Christmas last, until the said loan shall be reduced to 750,000*l.*; and that then they may divide

not exceeding 8 per cent. per annum; and after the whole loan shall be discharged, that thenceforth the surplus of the net profits arising to the Company in England, above the said 8 per cent. be appropriated to the payment of the Company's present bond debt, until the same shall be reduced to 1,500,000*l.* and that, from the time such reduction shall be effected, such surplus profits shall be equally divided between the public and the Company; and that the Company be released from the heavy penal interest incurred by the non-payment of money due to the public, by virtue of the late acts of parliament respecting the indemnity on teas, and the agreement for payment of 400,000*l.* per annum, for five years, from the 1st of February 1769, into the receipt of his Majesty's exchequer; and that authentic copies of all accounts of the duannee revenues, and the charges of the collection thereof, and also of the civil and military expences of Bengal, be annually laid before parliament; and also that the amount of the Company's sales, charges, debts owing, amount of bills drawn upon the Company, and of goods in warehouse, be also delivered annually to parliament; and that leave may be given to export teas, duty-free, to America; and that the deposits on the purchase of bohea teas, which, by the Act of the 18th of George the 2nd, are fixed at 2*l.* per chest, be encreased to 4*l.* per chest; and that the lords of the Treasury be empowered, upon petition from the East India Company, to grant liberty for exporting any quantity of tea to foreign parts, free of all duty, the Company being obliged to keep in their warehouses a quantity of tea equal to 18 months national consumption; and the Company beg leave to assure parliament, that they will forthwith consider and propose such regulations as shall appear proper and effectual, for the more advantageous management of their affairs, and for the due administration of justice in India.

"And therefore praying the House will take the premises into consideration, and to grant them such aid and power as are necessary for effectually carrying the said propositions into execution."

Debate in the Commons on the Propositions of the East India Company for a Loan.] March 9. The order of the day being read for the House to resolve itself into a committee of the whole House, to

take into consideration the Affairs of the East India Company. Previous to the Speaker's leaving the chair, the Petition from the East India Company was read, a list of the proprietors of East India stock was ordered to be printed, and then lord North presented to the House several papers, containing copies of letters which passed between Mr. Pitt, then secretary of state, on the part of the English, and M. Bussy and others on the part of the French court, relative to the French and English East India Companies. These papers contained the sentiments of both courts, at the time the definitive treaty of peace was negotiating between the two nations, respecting our territorial acquisitions in India. On a motion being made that the papers should lie on the table, Mr. Dowdeswell rose and read part of a foreign publication, which contained the following passage: "Respecting those territorial acquisitions the English East India Company hath made in Asia, every dispute relative thereto must be settled by that Company itself, the crown of England having no right to interfere in what is allowed to be the legal and exclusive property of a body corporate belonging to the English nation."

From several other papers which Mr. Dowdeswell said he had to produce, all maintaining the same doctrine, although authenticated by the British ministry at the time of the peace, he inferred, that as far as the sentiments of the crown could be collected from the sentiments of its ministers, it was understood that the East India Company had an exclusive and undoubted right to those territories it possessed, whether acquired by conquest or otherwise. Previous therefore to entering upon a discussion of the Company's affairs, he said he thought it necessary to acquaint the House with the sentiments of some former administrations, in which he had the honour to bear a part, and with which sentiments he now entirely coincided in opinion. Mr. Dowdeswell concluded by moving, that all the papers should be referred to the said Committee. This being agreed to, the Speaker quitted the chair.

Lord North rose and said:

Before, Sir, we enter into a discussion of the East-India Company's affairs, I shall beg leave to make a few remarks upon an opinion which has gained ground abroad, respecting a supposed

right the Company have to demand and expect assistance from parliament. It has, Sir, with a great shew of confidence, been asserted, that the income agreed to be paid by the Company to government was excessive, was advantageous to the state, and the Company's affairs considered, was more than they could possibly afford, doing justice to the several proprietors of stock. Taking this position for granted, it has been argued, that as the state by exacting the stipulated income from the Company has been necessary to its distress, the state in justice is bound to afford the assistance necessary to extricate the Company out of those difficulties in which at present it is involved. Now, Sir, this position is altogether false, and of course the consequence deduced from it is equally remote from truth. The position is false, for the income agreed to be paid by the East India Company to the state, so far from being advantageous, was by no means an equivalent for those articles of the revenue which the state gave up when it accepted the stipend of 400,000*l.* in lieu thereof. And as to this being a larger sum than the Company, considering the then state of their finances, could afford; was that, Sir, the fault of the ministry? Was the state to blame? Did not the Company of its own accord make the proposal? The first advances came not from government, but from the Company; the Company prayed then, as now, the assistance of government; the Company knew, or ought to have known, the strength of its own resources; and if the stipend offered was more than it could with convenience discharge, it was yet less than the state had a right to require, considering the value of those articles of the revenue given up, as I before observed, in lieu of the sum proposed by the Company to be annually paid to government. For my part, Sir, I declare, I was, at the first, averse to giving ear to any proposal of the kind; I was in hopes the Company's distresses were not what I have since found them to be; and therefore, that without the interposition of parliamentary aid, they might be redressed; but when pressed by the Company on the one hand, and the insight I daily gained into its deplorable situation on the other, I found it necessary for something to be done to save the Company from a situation little short of absolute bankruptcy; then, Sir, I listened to the proposal, but so far from an exaction it was only an acquies-

cence on the part of government to the Company's repeated and earnest solicitations. The justice then, Sir, of the state at all interfering on a supposition of its having been accessory to the Company's distresses, is an idea utterly repugnant to the matter of fact.

As to the right the state has to interpose its authority founded on its prior claim to all territorial acquisitions made by a body of its subjects, I shall say but little, though I might be fully justified in maintaining this right even in the most absolute sense; for, Sir, many men, far my superiors in abilities, in learning, and knowledge of the laws, have declared themselves of this opinion, and scruple not to express themselves clearly on this head, that "such territorial possessions as the subjects of any state shall acquire by conquest, are virtually the property of the state, and not of those individuals who acquire them." I am however, Sir, now only reciting the opinion of others as well as myself; but whether we allow or not that the East India Company has a claim of justice to be relieved, it certainly will on all hands be most readily granted, that in policy we ought, if possible, to extricate from its difficulties a Company so consequential to that state, and conducive, when under proper regulations, to the good of that whole, of which it is an illustrious part.

It is some time, Sir, since a Bill was framed, which it was imagined would greatly contribute to rectify the disorders complained of in India: but, Sir, the difficulty of appointing the judges, together with the want of proper information concerning the immense and complicated system of management carried on in Bengal, to which, if we add an ignorance of the real causes which contributed to occasion the Company's misfortunes, these obstacles prevented the application of what then was thought might prove an adequate remedy, and, in the sequel, the Bill was lost. We are now, Sir, to consider, as something in policy ought, what can be done for the relief of the Company; but even now we shall not be able to enter deeply into the affair, we shall not be able to probe the disease to the bottom, we are not sufficiently acquainted with its nature to prescribe, as skilful physicians, any thing which may effectuate a radical cure. In short, Sir, we still want the necessary information. Your committees, open and secret, have done all that men could do, with an unwearied diligence and perseve-

rance almost unparalleled; the latter hath performed every thing which could be expected; it hath done honour to its institutions, by fully answering the end of its institution: but still, Sir, there is much to come to light; at present suspicion only authorizes us to say, that from the malversation of the Company's servants abroad, and perhaps the culpability of some of its leading agents at home, there is an absolute necessity for an immediate interposition.

Far, Sir, be it from me to intend a reflection upon any particular man or set of men, we have no positive evidence of guilt, though strong enough presumptive to justify us in supposing that in a country where the temptation to err is so powerful, and the hopes of escaping with impunity so flattering, matters have not been conducted by the Company's servants with that fairness and propriety they ought. Let however, Sir, the guilt of individuals be ever so great, the Company is an object of too much national consequence to be overlooked. A Company, Sir, the annual receipt of which amounts to almost four millions, and which exports British articles to the amount of 400,000*l*. Such a Company is of too great a consequence, considered in a commercial light, not to call for our attention to its welfare. I will, Sir, state the affairs of the Company, [here the noble lord made an estimate of the net profits of the Company for several years past; and after shewing the decrease of profits, and gradual deficiencies incurred; after declaring it as a fact, that the Company had proposed a dividend at the very time it was in little better than an insolvent state, his lordship concluded thus.] From hence, Sir, I am warranted to declare, that in September the Company will be deficient 1,300,425*l*.

Now, Sir, various plans have been proposed to me to relieve the Company; the first is, that they might borrow what money they want upon bonds; but this is a method I can by no means approve of; for, Sir, they have already stretched their credit too far. Another expedient has been suggested, which is the funding the Company's bills; but this, Sir, would by no means effect what is wanted, an immediate relief; the Company's bills are diffused through a variety of hands, this expedient therefore would require a length of time to bring about the end proposed. Lastly, it has been suggested that as the directors and managers of the Company

must have been somehow or other to blame, it is but just that they should chiefly contribute to extricate the Company out of those distresses, to plunge it in which their flagrant misconduct has contributed. But, Sir, every man at first sight will perceive the futility of this proposal, for during the interval spent in getting at proofs of the guilt of the culprits, the Company may be ruined beyond even a possibility of redemption.

On the whole, Sir, after revolving again and again this subject in my mind, I am more and more convinced that an instantaneous step should be taken, and that it is for the interest even of the public that the public should assist the Company; not, however, without taking the necessary precaution to prevent the like disasters from befalling the Company in future; not without restraining the dividend to a certain assessment, nor yet without providing, that in case the managers of the Company should neglect so to regulate their affairs as effectually to rectify the abuses which at present subsist, that then, at the time the public grants an aid of money, the grant may be accompanied with parliamentary aid to remedy the evils complained of.

I did, Sir, flatter myself that some plan of this kind, some salutary scheme of reformation would have been proposed; I could have wished it had originated from the Company and not from parliament, but as it is, Sir, taking the precautions above intimated for my guide, I shall beg leave to propose the following motions to the consideration of this House, and should they be assented to we shall then have an opportunity, session after session, of making ourselves such thorough masters of East India affairs, that we shall be well enabled to adopt those plans only, which, by alleviating past, may prevent the future misfortunes of a Company, to contribute to the lasting welfare and prosperity of which has been my desire, and shall be my endeavours.

I shall now, Sir, read the Resolutions I have to propose.

1. "That for effectually relieving the East India Company under their present difficulties, the supply of a considerable sum of money will be necessary.

2. "That the method best calculated for giving the requisite relief to the Company, without impairing the security of their creditors, and without detriment to

the state of credit in general, would be, that such sum of money should be advanced by the public to the Company.

3. "That the sum of 1,400,000*l.* will be sufficient for the present relief of the Company.

4. "That it may be expedient for the public, to advance the Company the said sum of 1,400,000*l.*; provided, at the same time, due care be taken to secure, by proper regulations, the future good government of the Company's affairs."

Mr. Dowdeswell:

Sir; the noble lord, with a perspicuity peculiar to himself, has stated the Company's affairs, and proved, I believe, Sir, to the satisfaction of every man present, that without almost instantaneous relief, the Company is in a fair way of being totally undone. I am, Sir, so well convinced of the propriety of our interposition, that I rise not to oppose the noble lord's resolutions, but to make a few remarks upon some expressions let fall in his speech.

The deplorable situation of the East India Company has been painted both within and without doors in lively colours; but, Sir, who has been more immediately accessory to its distresses? Has not the prospect of immense wealth tempted its own servants to ransack, as it were, the bowels of the very mother that bore them? Has not the present administration stretched forth its rapacious hands to seize upon the wealth of the Company? Who, then, can wonder at its distresses? Who can be surprised at the ruin which awaits this once flourishing body corporate? But, Sir, the noble lord is pleased to talk of the territorial acquisitions of this Company as of "right and justice belonging to the state." I, in this particular, differ so much from the noble lord, that I think the position utterly repugnant to truth; and, in behalf of an injured Company, I here stand up to disavow such notions, as inconsistent with the chartered rights of the Company, as inconsistent with that encouragement which should ever be given in a commercial state to companies of such consequence as that trading to the East Indies. This, Sir, is all I have at present to say upon the subject. With respect to the Resolutions proposed by the noble lord, I am too much a friend to the Company to oppose them in a single instance.

Mr. *Dempster* :

Sir ; the noble lord dropped an expression, which, I confess, gave me greater surprise than any thing I ever remember to have heard since I have had the honour of sitting in this House. The noble lord was pleased to say, Sir, that "the East India Company had no claim of justice for relief." To what, in the name of goodness, does this assertion amount? Is not the East India Company a trading company? Have not the benefits accruing from its traffic been immense to this kingdom? And shall we say, nay shall we hear it from the mouth of administration, that, in strict justice, we ought not to attend to the commercial interests of Great Britain? For what, Sir, do we by relieving the Company, except putting it in a situation of benefiting the state by its commerce? Yet, Sir, according to the noble lord, this is not a matter of justice, but of policy merely, that is, of convenience to some party! If such be the language of office, it differs, Sir, so much from my sentiments, that I should think myself deficient in point of duty, did I not totally disclaim the ideas as incongruous, and the proposition as an absurdity in terms, although an absurdity of a dangerous tendency. Respecting the territorial acquisitions of the Company, there also, Sir, I entirely differ in opinion from the noble lord; and, if I err, can plead, as well as the noble lord, respectable authority as a sanction for my error. Several gentlemen, well skilled in the laws of their country, have advanced it as their opinion, that the Company have an undoubted, a clear, and an exclusive right to the territories possessed in India, whether acquired by conquest, or otherwise. I have now, Sir, a gentleman in my eye, who formerly held the same opinion. He is now, indeed, in office, and whether a change of situation may have so far operated upon his intellects, as to occasion a change of his sentiments in this particular, I cannot determine. However, Sir, this is not the time to debate the proposition; it is not properly before us; when it is, I shall enter the lists a champion for the Company's rights, and will shew, that to maintain the noble lord's position, is to maintain that the charters of corporate bodies may be violated at pleasure, set at nought with impunity, and abrogated whenever it can serve the purposes of government.

Mr. Edmund Burke got up, and calling

the chairman, by mistake, sir Charles Whitworth, a laugh prevailed through the House; at length the risible muscles of the members being somewhat composed, Mr. Burke proceeded as follows :

Mr. *Edmund Burke* :

Instances, it seems, Sir, of absurdity, are never to be wanting in this House; but previous to our being absurd upon record, I do beg that the Resolutions proposed by the noble lord may be a little attended to. It may be thought a trifling request, but I cannot think that trifling, the omission of which might tend to an impeachment of your understandings. Sir, if I comprehend the meaning of the noble lord's motions, it is as follows: it is first asserted that a supply is necessary to relieve the Company: you next agree now to vote them a supply; though in the fourth motion it is expressly asserted, that the Company shall have the supply, "provided, at the same time, due care be taken to secure, by proper regulations, the future good government of the Company's affairs." Pray, Sir, who is to make these regulations? The sentence is impersonal; it provides that due care shall be taken, but never says by whom. I would further ask, Sir, what we are to understand by the phrase "at the same time." It cannot mean now that we are voting the money necessary, because no due care has been taken, no regulations are now made; and yet, Sir, it ought to mean, at the very instant the money is voted necessary, or it becomes arrant nonsense: for, consider, Sir, "provided at the same time due care be taken," implies a conditional contingency which may or may not happen; for due care may or may not be taken. So that we are now going to grant the public money upon the strength of a conditional contingency which may not come to pass, though upon the absolute certainty only of the contingency happening, the money is voted! My God, Sir, what informal, delusive, unparliamentary, illegal, incoherent stuff is this! I ask again, Sir, who is to take this due care? Who is to make these wonderful regulations? Parliament confesses, in plain terms, its total inability; for with all your Secret, your Select, and your open committees, it appears by your own confession, that you have done what amounts to nothing. Is it from you, then, that we are to expect these regulations, and this due care? No: you confess that you wish the regulations

may come from the Company: they are, you say, better qualified; so that with respect to those matters the case stands thus: parliament wants sense; the East India Company wants—what is too often a substitute for sense—money: parliament, out of its abundant resources, agrees to supply the Company with money, “provided at the same time,” (that is some time hereafter) the Company will furnish parliament with as much sense as they may think adequate to the supply advanced! It seems as if you were at least conscious of your deficiencies, for considering the state of the nation at present, 1,400,000*l.* is a sum that ought to purchase a good deal of sense. May the Company furnish you with some sense of the sterling kind! With such an excellent commodity that you may be gainers by the bargain! If I thought that would be the case, I should vote for the present supply with prodigious alacrity, and think it the best bestowed money the public has for some years parted with: but I do beseech you to correct that ungrammatical jargon in which the motions are contained; since (contrary to the ideas conveyed by the terms) we are not to understand, “at the same time,” to mean the present now, *eo instante*, but some indefinite, unlimited time hereafter. Since this is the case, take care, I say, lest after you have furnished the money, the Company should not perform their conditions, by furnishing you with the sense.

I declare, Sir, I am far from intending this in a ludicrous light: I think it a matter of serious consequence. The Company have applied to parliament for pecuniary relief. You pass resolutions to relieve them; they go away satisfied; their affairs are supposed to be now reinstated, and their stock is affected thereby. Yet here is a condition expressly tacked to the grant, of which they are not apprized. The condition is not performed; they receive not the grant as expected; and thus, like a bubble blown up in air, their hopes vanish, their delusive golden dream expires. If this is not the fact without exaggeration, upon an intimation that the House conceives it in a different manner, I am ready and willing to retract my error.

Lord North:

The hon. gentleman is pleased to be facetious. It is possible, Sir, that we may stand greatly in need of sense, but it is not altogether so extremely clear, that

the East India Company abounds in that commodity: their wants of another kind perhaps are proofs of this, for had they had more sense, they might not now have been so destitute of money.

With respect to what the hon. gentleman finds fault with, I can only say, that to my poor apprehension the meaning of the obnoxious sentence is extremely clear. We first resolve to furnish the Company with money; but the express condition of their receiving that money is, their or our taking care, “at the same time,” to frame such regulations as may best prevent the return of similar evils upon the Company. The word ‘provided’ does by no means imply a condition. I will not trespass longer upon the House; I have proposed my motions, and if any gentleman has other resolutions more likely to answer the end, I am ready to hear and take the sense of the House upon them.

Mr. Edmund Burke:

There are many gentlemen now in this House accurately acquainted with our acts of parliament, and if any one of them will stand up and tell me, in what other sense than that of a condition the word ‘provided’ is used in all stipulated articles of agreement, I shall be infinitely obliged to him. The noble lord may be an excellent statesman, but from what he has just now let fall, I will trust him in any thing but an explanation of the meaning of a word in his native language. I am sure the gentleman who sits next him (Mr. Dyson) never helped him to the terms in which the motions are drawn up.

Mr. William Burke:

We were called together early in the season, to consider of the regulations which the noble lord informs us are yet in the womb of time. Our adjournments have been short, our meetings frequent, our committees on India affairs many: yet what has all this produced? What by the sensible part of the world, was expected—nothing. We are, as I understand, to sit here for many months longer, in the sultry months, for the benefit of our healths. But when these same regulations relative to the East India Company are to take place, heaven alone can tell. By the language of the motions, they should commence now, that we are about to resolve the money necessary: by the language of the minister, it is not now, but at some future determinate period: so that

the written and the verbal stile of the minister varies considerably, unless, like reading it backwards, we begin with the motion which has the last place assigned to it by the noble lord, though it is first in the order of common sense.

Mr. *Charles Fox*. I know no other way, Sir, of accounting for the hon. gentleman's mistake (Mr. E. Burke) who spoke last but one, unless by referring it to the error he set out with. He really, Sir, takes you for sir Charles Whitworth, and this for a committee of supply. [A loud laugh through the House.]

Mr. *Edmund Burke*. I am always happy when I can contribute to the good humour of the House, as I think it an auspicious omen in our favour; but, Sir, I should have been absurd indeed, had I taken such a committee as this for a committee of supply, though I know not that I should have deserved censure for mistaking you for sir Charles Whitworth.

Governor *Johnstone*. I rise, Sir, entirely to coincide with the noble lord's motions, though I differ from him in opinion concerning the territorial acquisitions in India. A late chancellor, I remember, who did honour to the post he occupied, declared himself in favour of the Company's exclusive right of territory. However, this is not the place for such points to be determined. As trustees for the public, we are parties concerned, and cannot decide in the public's favour against the Company. Westminster-hall is the place for such decisions. One thing, Sir, I must beg leave to mention. There was a proposal relative to encreasing the dividend, before a participation of profits between government and the Company should take place. The chairman, at a general court, I remember, was asked, whether he thought that proposal would be agreed to? His answer was, that he had reason to think it would meet with no opposition. He was asked by many, and myself in particular, whether he spoke this from authority, or his own conjecture? Now, Sir, the effect such a declaration must have upon the stock is too notorious to need recital. What, therefore, I have to say is, that if the chairman made the declaration from authority, the noble lord, who made the motion, has been a little inconsistent; but if the chairman made the declaration without authority, he is to the last degree criminal, as such proceeding is sporting with proprietors who are already in too deplorable a situa-

tion, not richly to deserve the interposition of parliament in their favour.

Sir *George Colebrooke*. As the hon. gentleman has thought proper to allude in a particular manner to my conduct at a late general court, if the House chooses it, I am ready to relate the conversation which passed in several interviews with the noble lord, though I had much rather be excused. [Here the House pressed him to proceed, when he related some private confidential conversation, and then concluded thus:] From these expressions of the noble lord, I did, I confess, understand, that he avowed the proposal relative to an increase of dividend, previous to the participation taking place, and as such I ventured the declaration when called upon in a general court.

Lord *North*. What the hon. gentleman (governor Johnstone) has let fall, I confess surprises me. In all the interviews I ever had with the hon. gentleman who spoke last in his official capacity, as chairman of the Company, I was always careful not to be mistaken; I always cautioned him against all thoughts about encreasing the dividend above 6 per cent. and I repeatedly told him, that whatever passed in conversation I expected for ever to be buried in oblivion, and that it might never be quoted as authorising him to take a single step. With respect to what was committed to writing, that I told the hon. gentleman he was at liberty to rely upon as the result of mature deliberation. I have not one of the hon. gentleman's letters about me; but I will venture to affirm, that in none of them is there a single expression which could be construed into an acquiescence in an increase of dividend previous to the participation taking place. The very idea is absurd: to authorise a Company to increase their dividend before they have paid their debts, is to the last degree preposterous, and contrary to every maxim I have hitherto laid down in all my treaties with the Company.

Sir *G. Colebrooke*. In justification of myself, I must be permitted to say, that I am incapable of repeating a private conversation to any man's disadvantage. I will not affirm, that there are expressions in any of the letters, which might lead me to conclude, that the noble lord would accede to the proposal of an increase of dividend; but I thought some of his verbal expressions authorised me to say what I did at the general court.

Here the debate concluded, and the

question was called for; but Mr. Burke persisting in his assertion relative to the absurdity of the phrase, "provided at the same time," when it referred to something future, he proposed the following amendment, "provided that in six weeks the Company shall make due regulations." This passed in the negative, and the resolutions stood as before mentioned.

The House then resumed, the chairman reported progress, and asked leave to sit again.

Debate in the Commons on the Resolutions for restraining the East India Company's Dividends.] March 23. The House again resolved itself into a Committee to consider further of the Affairs of the East India Company, Mr. Bacon in the chair.

Lord North opened the debate by expressing his concern that after the utmost diligence exercised by the Committees, the whole of the Reports not being yet ready, it was impossible for the House to enter upon a discussion of the whole of the Company's affairs; that on the ensuing day a report of the Secret Committee would be made, enabling the House to go into a thorough consideration of the matter; that however something at present might be laid before the House respecting a restriction of the Company's dividend in case the public should think proper to advance the loan required; the necessity of which restriction, and of the parliamentary resolutions consequent thereupon, the noble lord strenuously urged as the best, and he said only possible expedient to prevent a continual rise and fall of India stock. His lordship also added, that the body of the proprietary in particular, as well as the public at large, expected to hear the definitive sense of parliament, relative to restraining the dividend, or permitting it to be enlarged; for these and a variety of other reasons not equally important, he proposed the following Resolutions:

1. "That, in case a sum of money shall be advanced by the public, for the relief of the East India Company, the Company ought to be restrained from increasing their Dividend beyond 6 per cent. per annum, until such money shall have been repaid.

2. "That, in case a sum of money shall be advanced by the public, for the relief of the East India Company, the Company ought to be restrained from increasing

their Dividend beyond 7 per cent. per annum, until their Bond Debt shall be reduced to 1,500,000*l*."

The noble lord supported these resolutions by several forcible arguments. Such as the undoubted right every creditor, who parted with his money, had to exact certain conditions, and stipulate certain agreements, previous to his acquiescence in the request solicited. With respect to the restriction of the dividend to 6 per cent. it was founded, he said, upon the state of the Company's situation, which was such as to render a thought about permitting them to declare a larger dividend to the last degree preposterous. His lordship took notice, that the persons concerned in keeping the Company's accounts, were such expert arithmeticians, that they were acquainted with the two-fold method of cyphering, in consequence of which, his lordship added, it was apparent that there was such a thing as a two-fold method of stating accounts; but that stated in a real conformity to the Company's situation, a dividend of 6 per cent. would be found to be the largest moiety in the power of the Company to afford with justice to the public, and the welfare of the proprietary. With respect to the second proposition of allowing the dividend to be increased to 7 per cent. after the money borrowed of the Company should be paid off, the very prospect of this increase of dividend, his lordship said, would operate with the Company, and expedite their endeavours to discharge the debt incurred. The prospect of an increase of 8 per cent. would, his lordship observed, also produce a similar effect. His lordship next proceeded to state from whence the resources were to flow for the discharge of the debt due to the public, and the reduction of the Company's bond debt; these, he said, must arise from the territorial revenues of Bengal; and his lordship further intimated, that when these two purposes, namely, the repayment of the loan advanced by the public, and the reduction of the Company's bond debt to 1,500,000*l*., were effected, that perhaps the Treasury might contribute a moiety of its share of the participation to re-establish the affairs of the Company in a manner most for the honour of the nation, the interest of the proprietary, the benefit of commerce, and the security of public credit: but his lordship also intimated, that perhaps parliament might think proper, hereafter, to agitate the question

about the right to the territorial possessions in India, whether it was vested in the state or the Company.

Mr. *Sullivan* rose, and in behalf of the Company advanced the following assertions. He said, that the representation made by the secret and select committees of the state of the Company's affairs were in several respects erroneous: in particular, the secret committee in the report they had made had given no credit at all for the fortifications, warehouses, &c. of the Company in India; yet they ought to be estimated at something, and a fair appraisement being made of their value, it would appear that the Company, as to its finances, was by no means in the reduced state described: nay, said Mr. *Sullivan*, all things considered, and a proper balance of profit and loss being struck, the Company is at this time rather in a flourishing situation. He therefore contended, that a limitation of the Company's dividend to 6 per cent. was a measure highly injurious to its real interest. He stated the Company's affairs at different periods since the year 1702, and concluded by arguing for a dividend of 8 per cent. which he said the finances of the Company might well afford.

Governor *Johnstone* said, that from what fell from the noble lord, he perceived that there were two ways of stating arguments as well as accounts; that though he might join the noble lord in the necessity of restraining the dividend, yet he differed in the sum to which that dividend was designed to be limited; that respecting the Treasury's hereafter renouncing its share of the participation, in order to expedite and effectuate the Company's re-establishment, though he was inclined to give as much credit as any man to what the noble lord on every other occasion said, yet in this particular he could not help thinking but that the assertion stood in need of some further proof, some kind of collateral security for its performance. The governor added, that he was clear in one thing, that the Company had not exceeded the right vested in them by law in borrowing the sum they had: it was true such an assertion had been advanced, and terrific threats had been denounced in consequence of the Company's supposed delinquency in this respect; but he was sure parliament never seriously intended to put its threats in execution by farther agitating that point: if parliament did so mean, the Company was ready and

willing to meet parliament upon that ground. The governor concluded by expressing his wish that a step of such importance to so immense a body of people, might not be hastily agitated, or too precipitately determined; he therefore moved for postponing the consideration of the noble lord's resolutions for a few days.

Mr. *Dempster* warmly recommended the same measure, as it could have, he said, no influence upon the rise or fall of India stock; the noble lord having so frequently declared his opinion respecting the dividend, as to render it no longer a matter of doubt to which side of the question his lordship was inclined to lean; but he said, that as the proprietary had agreed to treat with administration, upon a supposition that the allowance of a dividend of 8 per cent. would meet with its support; to refuse a request of the kind was to lend the aid of government to deceive a set of men who had already been but too much and too frequently imposed upon. He further said, that the intimation of the concurrence of administration, respecting an allowance of the dividend now solicited, was given the proprietary from their own chair. He concluded with beseeching the noble lord to delay the final consideration of the matter for a day or two.

Lord *John Cavendish* spoke with infinite spirit and propriety upon the occasion: he said, that administration had lately shewn a strange propensity to interfere in every species of the executive power: that such a procedure as the present was a dangerous precedent; for with respect to declaring what dividend the Company should or should not make, it was to all intents and purposes to wrest the power of declaring a dividend out of the hands of the directors wherein it was by charter lodged, and to vest that right where neither the Company's charter nor the custom observed, with respect to trading companies, authorised it to be vested in parliament: his lordship was therefore against restraining the dividend, as a step that savoured much of too great an assumption of the executive power; but he strenuously urged the necessity of a parliamentary enquiry into the affairs of the Company, and concluded, by recommending the execution of strict and impartial justice upon delinquents how dignified soever.

Mr. *Jenkinson* rose, and, in defence of the restriction of dividend proposed, he observed, that what had been advanced by

an hon. member, (Mr. Sullivan) respecting the value of those fortifications, warehouses, &c. belonging to the Company in India, was extremely fallacious; that it was true, the secret committee, in their report, had estimated them at no certain sum; but that this, so far from being an omission, was perfectly conformable to justice; for the fortifications, warehouses, &c. the property of the Company in India, supposing them of immense value there, could not fairly be estimated as of any value here; they were subject to casualties; were at an immense distance; a thousand accidents might intervene, granting the Company disposed even to convert them into cash; on the whole, he thought, that in making no estimate, and giving the Company no credit for these fortifications, the secret committee had acted perfectly consonant to truth, to reason, and their duty. With respect to postponing the resolutions proposed by his noble friend for even a few days only, agreeably to the desire of an hon. gentleman, this could answer no end whatever; for a restriction of the Company's dividend to 6 per cent. was either a proper or an improper measure; if it was an improper measure, the sooner it was discussed, and laid aside, the better; if, on the contrary, it was a proper measure, why postpone it? A delay of even a few days would imply that the dividend might not be restrained, at the same time that it was perhaps the sense of parliament that it should be restrained; it would make that possible only and contingent which in itself was certain and determined; it would keep a body of men in suspense, and thus defeat one of the very ends for which the noble lord had proposed his Resolutions. He therefore concluded, that he believed the propriety of the restriction of the dividend to 6 per cent. was universally allowed by the House, as scarcely a single argument had been advanced against it; and the propriety of the measure being admitted, the sooner it was determined on, the better would it be for the Company: on which account he was in favour not only of the Resolutions, but of the instant decision of the affair.

Lord North said, that it was one of the miseries concomitant with greatness and attending his office, that a word, a look, even a gesture, was liable to be misconstrued and perverted to an improper use; on this account his lordship said, that it became dangerous for him to speak with

that freedom he could wish, lest his words might be quoted as a confirmation of some men's sentiments, who pretending to be in the secret, might make a pernicious use of their speculation, and thus, continued his lordship, I might be accessory, though innocently, to the injury of thousands. It is partly to prevent a practice so averse to my nature, that I have ventured to propose these Resolutions. I think them the best specifics against that hateful disease of stock-jobbing; and were I, in compliance with the hon. gentleman's request, to delay the application of the remedy, I should, by a careless remissness, only connive at the prevalence of the distemper for a few days longer.

Mr. Edmund Burke next rose, and begged the chairman would read the Resolutions; which being complied with, Mr. Burke desired that they might be put, and debated separately; and that only the first, relative to the restriction of the Company's dividend to 6 per cent. might then be agitated. Lord North consented without hesitation to separate the Resolutions, and the first being read,

Mr. Edmund Burke spoke nearly as follows.—He said he had long experienced the inefficacy of his arguments and the weakness of his reasoning powers, when employed in opposition to any proposal, how absurd soever, that came from the opposite side of the House; that to differ in opinion from the noble lord was a kind of political heresy, which the noble lord's more orthodox friends resented as a crime of the deepest dye; that to harangue against the measures of a wretched administration, was to grate the jarring sounds of discord upon the ears of too many in that House; that it was inharmonious, and, like some string that struck not in unison, it produced, in the opinion of some, the most unpleasing and unmusical concord imaginable. He said, that the gentlemen in office had the means in their power of attuning all their instruments to perfect harmony; and that they had made proper use of such means could not be doubted with a shadow of propriety; but as he still continued the same unmusical, unpleasing, discordant creature, he should venture a few observations, disgusting enough he knew to some, though if they should prove so to all, upon the slightest intimation of the kind, he would sit down and desist from giving further offence.

Having thus dispatched his exordium, Mr. Burke next stated the propositions he meant to prove, the most material of which were the following :

1. That the East India Company were not before the House.

2. That if ever they were before the House, they had been brought there by force, fraud, and menaces.

3. That the treaty between the government and the Company was, on the side of the government, iniquitous in every part.

4. That with respect to the territorial acquisition, not one lawyer, with a rag of a gown upon his back, or a wig with one tie, had given it as his opinion, that the right to these possessions was vested in the crown, and not in the Company.

5. That the pretence of rectifying abuses, of nourishing, fostering, and protecting the Company, was only made with a design of fleecing the Company.

6. That the French East India Company, under a government truly despotic, was yet in a better situation than the English East India Company, under a government which pretended to liberty.

7. That in respect to the mode of conducting itself towards its East India Company, the French government was an angelic government, compared with the English government, in its conduct towards its East India Company.

8. That the very vote then about to pass was such an infringement upon charter-rights as the spirit of Englishmen ought not to brook ; and such a violation of the constitution, as might indeed be paralleled, but could not be exceeded in the annals of any country, how despotic soever.

To prove the first proposition, " that the East India Company was not before the House," Mr. Burke argued thus :

He said, that the act of the Company was contained in the whole of the proposals laid before the House : that the House was to treat with the Company in its corporate capacity, and to accept or reject the whole of its acts ; that to accept of part of the Company's proposals, reject the rest, and ingraft new proposals of its own upon those offered by the Company, was to drop the idea of a treaty between parliament and a corporate body, and to assume an unconstitutional right over the Company ; it was, in short, to all intents and purposes, to destroy the charter rights of the Company. The act of the Com-

pany, therefore, being contained in the whole of the proposals ; and the whole of the proposals, not being before the House, it followed, that the Company was not virtually before the House, in the only sense that a company of the kind could be before the House, namely by its acts.

To prove the second proposition, " that if the Company was now or ever had been before the House, it was brought there by force, fraud, and menaces," Mr. Burke went historically into a detail of the first treaty entered into with the Company in the year 1767. He said, that a " shrill voice," (Mr. Beckford's) something like the call of a huntsman to the early horn, came from that side of the House to the following purport : " Look to the East." That the bait which tempted the administration of that time was thirteen millions of specie ! To the populace without doors was held out the allurements of " no additional tax upon porter." To the landed gentlemen within was proposed, that tempting circumstance of " no land tax." No, no, said Mr. Burke, our English nabobs make no scruple to dispense with taxes of every kind ! Thus allured by the prospect of the thirteen millions, administration forced the Company to open a treaty ; and to expedite the proposals on the Company's side, menaces were then, as now, thrown out, and the threats to deprive the Company of its territorial acquisitions had so far the effects intended, that administration raised in their demands in proportion to the alacrity shewn by the Company to enter into treaty ; the fraud on the part of administration lay in exacting from the Company an annual payment of 400,000*l.* at a time when the Company was actually involved, and incapable of paying 40,000*l.* a year : yet this very Company, so incapacitated, was forced to accede to an agreement to pay 400,000*l.* yearly to government, to prevent the threats fulminated by administration from taking effect, in which case the Company was to be robbed of its territories acquired by grant, by conquest, or otherwise ! So that this treaty was begun by force, carried on by fraud, and concluded by the means of despotic menaces.

To prove the third proposition, " that the treaty between government and the Company was, on the side of government, altogether iniquitous," Mr. Burke contended thus : the pretext for interfering in the Company's affairs was in 1767 the

same as in 1773: mismanagement, corruption, frauds, and peculations of every kind, were said to have been committed by the Company's servants both at home and abroad. Have these evils been rectified? Have any of the criminals been summoned before you? Has their conduct been inquired into? Not one single suspected person has been examined; not a man, against whom a charge was exhibited, has been catechized as to his demerits. On the contrary, if the evils complained of did really exist; if the whole of the management of the Company's affairs was one scene of bloodshed, rapine, violence, and perfidy abroad; of corruption, stock jobbing, trick, villainy, and artifice at home; you ministers, at the same time that you held out this as a reason for entering at all into an examination of the Company's affairs, you, I say, sanctified this bloodshed, this rapine, this villainy, this extortion; you gave a sanction to these crimes, and granted a royal permit for the Company's servants to practise them in future for the valuable consideration of 400,000*l.* This was the price of blood; this was the assessment made by administration; this crime-tax being agreed, to we heard no more of mal-practices! The sinners were arrayed in white-robed innocence; their misdeeds were more than atoned for by an expiatory sacrifice of the pecuniary kind.

What is now advanced, said Mr. Burke, will hold with respect to the Company's territorial acquisitions; the lawyers equivocated when the question was agitated; one said "the Company's territorial possessions we held by grant under office, and not by conquest;" another said, that "the crown, though it could not claim them by a legal right, yet ought, *per fas aut nefas*, to enjoy them;" but I, said Mr. Burke, was one of many who combated this doctrine upon either of those grounds laid down by some men; for I then said, and I do now say, that the Company's possessions were not gained by conquest, and therefore the crown can have no right to them; or granting them to be all gained by conquest, that even then the crown has no right to them. Mr. Burke concluded by asserting, that no lawyer with a rag of a gown upon his back, or a tie grizzle upon his head, had ventured positively to assert that the crown had any right to the territorial possessions of the East India Company.

Mr. Burke slightly touched upon his

fifth proposition; for he said it was notorious, that past administrations had professed to have the Company's welfare at heart, at the very time when they were plundering it; and he had not, he said, conceived a more favourable opinion of the intentions of the present set of ministers. Respecting the French East India Company, Mr. Burke said, that the king of France had taken their affairs entirely into his own hand; that when they were in a deplorable situation, he took their debts upon himself, and had since punctually discharged them: that in the worst of times he had permitted them to divide five per cent. In short, that he and his ministers had acted, compared with our King and his ministers, with respect to their East India Company, like angels; and that the French East India Company, by the monarch's friendly hand, had flourished more in a land of despotism than the English East India Company ever had done in a land of boasted liberty; but that our liberty consisted in boasting only, that it was imaginary and not real, was, Mr. Burke said, but too apparent.

In proof of which he referred to his eighth proposition; for what, says he, are you now about to do? Are you not going to invade the rights of the Company as invested in them by charter? Have you such an authority by the constitution? No. Are you not going to assume it? Yes. Are you not, as my noble friend (lord John Cavendish) has observed, are you not going to seize the executive power, and illegally to deprive the directors of the Company of their rights? For to them and not to you the declaration of a dividend appertains. But further, upon what grounds do you presume thus to declare a dividend of 6 per cent? Have you stated any accounts? Have you proved to us that the Company can afford to pay even this dividend? For you talk much of their bankrupt situation. Without stating therefore a single account, you declare the Company able to divide 6 per cent. though not able to divide more; and to prove this, you bring no sort of authority, you produce no voucher, but deal out assertions, illegally dispose of the property of thousands, and beg us to believe, upon the credit of your own words, that you are acting all the time for the Company's benefit!

You talk of the mismanagement of the Company's servants; you talk of their quitting the trading for the military path.

Who first occasioned their acting in this manner? It was the intrigues of the French that first drew them aside from trade to war, and you have been accessory to these intrigues. But even in a military capacity, our East India Company has done what never company did before; it has maintained its forces at its own expence; so that an army is to be raised, to be paid in order to prosecute wars into which you have drawn the Company; and if any acquisitions are made, the King is to seize them, as of right belonging to himself: if the Company is not able to pay 40,000*l.* you are to force it to pay 400,000*l.* and if, by means of your thus plundering it, the Company is reduced to a state of bankruptcy, to restore its credit, you are to infringe upon its rights; to settle its affairs, you are to adjust its dividends; and to rectify its abuses, you are to deprive it of the liberty of sending out officers for the purpose.

But to what has all your boasted attention to the public credit of this, or any other company, amounted? Even to the entire destruction of that public credit which you have pretended to save. The East India Company's bonds were never at so low an ebb as since you intermeddled with their affairs: Bank stock has fell, though not so much as it would had your intermeddling fingers been more concerned. In short, with daily professions in your mouths of preserving public credit, hitherto every kind of stock upon which you have laid your pestiferous hands, has perished by the touch, and public credit, about the preservation of which you talk so much, is almost annihilated amongst us.

Mr. Speaker *Norton* rose and said, that so far from no lawyer having openly declared in favour of the right of the crown, to the East India Company's territorial possessions, no less than three respectable characters had given their opinions expressly on that side of the question. One of the gentlemen to whom I allude, says sir *Fletcher*, is now no more; the other has attained those professional honours to which he was eminently entitled; and the third (Mr. *Thurlow*) is in a fair way of attaining every honour to which by his shining abilities he has a right to lay claim. He then read a copy of those gentlemen's opinions, the purport of which was, that his Majesty had an undoubted right to all those territorial possessions in India which the Company had acquired by conquest. This, continued sir *Fletcher*, I thought

proper to produce, in contradiction to what the hon. gentleman advanced; and it may serve to convince him, that men who have whole gowns, instead of rags of one, upon their backs, have avowed sentiments which the hon. gentleman was pleased to say no lawyer ever yet avowed. Respecting the opinion I formerly gave upon the subject, being not then in office, it may be supposed a transcript of my real sentiments. What my sentiments on this head now are, will appear more fully when this matter comes before the House; and I wish it to be discussed in a fair, candid, and open manner; when I shall discharge the duty I owe to my country as a senator, as a man, and, I hope, a sound lawyer.

Mr. *Grey Cooper* next stepped forth in support of the Resolutions. He attempted to refute the reasoning, and render ridiculous the arguments of Mr. *Burke*. He said, that the whole of that ingenious senator's speech was a fallacy. As to no accounts being stated from whence the propriety of a restriction of the Company's dividend could be inferred, it was false in fact; for that the Company's debts were sufficient to justify the restriction of dividend. That as to the French East India Company, he had read something relative to the conduct of the king of France towards that Company, particularly a pamphlet written by an Abbé, wherein it was asserted, that the king had condescended to pocket a large share of the Company's profits, and this, according to the expression of the Abbé, "*pour nourrir les affaires de la Compagnie*;" that if this was acting in an angelic manner, the French king was indeed an angel of a monarch; but he concluded by wishing, that the English East India Company might only know what it was to be governed by mortals like the present king and his ministers, sooner than such angels as the Grand Monarque and his ministers.

Colonel *Barré* next rose. The House was all attention; and the colonel thus broke silence. He said, with a smile, that his ingenious friend (Mr. *Burke*) had been so rapid in his flight, that it was scarcely possible for a common observer to follow him with the eye; he entered into a justification of the treaty made in 1767, with the East India Company. He said, that the administration of that time meant every thing for the benefit of the Company, and the interest of the nation; but that they had been inter-

rupted in their pursuit by little factions, fomented even by their friends as well as enemies; 'Tis true, said the colonel, my good friend behind me (Mr. Burke) has often given us a basting for that negotiation; but I am conscious we deserve it not. The colonel took occasion to mention the late Mr. Beckford, who had been alluded to by Mr. Burke; he was, said the colonel, a man who always meant well, though he sometimes took wrong methods to obtain his ends. With respect to what Mr. Burke had let fall concerning a great lawyer's having asserted, that the crown should seize upon the territorial possessions of the East India Company, *per fas aut nefas*, I declare, said the colonel, I do well remember the opinion lord chief justice De Grey gave, and I am certain that such an expression never dropped from his lips. It is true indeed, that the various and contradictory opinions given by various lawyers upon the subject, have confounded me; I profess I never could understand them: though I dare say they meant it not, yet so far from convincing, they have always puzzled and misled me, which has occasioned me frequently to declare, that we were out-flanked by the law. The colonel then shewed the vastness of the object before the House, and from its consequential nature, he argued for the necessity of going to the bottom of the enquiry; of punishing, if punishment was necessary; and of applauding where merit exacted such applause. If you meet a character, said the colonel, answering the description of a man, who though in many respects perhaps is highly culpable, yet who has contributed to support the East India Company in existence; if during the course of your enquiries you discover such a character, for God's sake weigh well his merits, and balance them against his crimes. The colonel next said, that the movements of administration had been too slow; but "better late than never," for had the minister longer delayed an enquiry into the East India Company's affairs he would have deserved impeachment.

I love you not, said the colonel, addressing himself to the ministry—I love you not, but in this business, whilst you conduct yourselves with propriety, I will go with you hand in hand: but seek not power in your researches; aim not at a distribution of offices; you have already enough at your disposal; permit me to say that you have too much to answer any

good purpose; by which means you carry all before you; we only, continued the colonel, come here to know the hour when you order your carriages to be ready. Opposition is dead, (here the colonel folded his arm and reclined his head) opposition is dead, and I am left chief mourner over her bier; but let not this, I constrain you, be a motive for your grasping at more power; have no cousins, no younger brothers, no servile dependants to quarter upon the Company; this impeded our researches, as the following anecdote, said the colonel, will evince: During the former agitation of the East India Company's affairs, I one day left the House, and passing through the lobby, I saw a certain member in close conversation with a powerful man, at that time in the direction. I took the first opportunity of addressing the member; "Pray," said I, "what were you conversing with the director about? Were you endeavouring to get some information relative to the affair now before us?" "Oh no," replied my friend, "I was soliciting his interest for the provision of an unfortunate young man, a distant relation of mine, whom I am going to send to the East Indies." Did not truth oblige me I should be sorry to say, continued the colonel, that I fear this is the case with too many amongst us! and if such selfish views are suffered to prevail, our enquiries will prove fruitless, and all our efforts to serve the Company abortive. The colonel then concluded, by recommending perseverance; and said, he hoped that now nothing would draw aside the attention of administration. The affairs of the Company ought, he said, to be finished this session, even if the House sat till August; before another session, war, or some other calamity, might engage the attention of the House; and if that should not be the case, the time would be too nearly approached, when the private interest of each member would preponderate. I advise you therefore, concluded the colonel, for the sake of your credit with the King (for God knows you have none with the people,) but, for the sake of your credit with the King, I advise you to acquit yourselves like men in this undertaking; it is an arduous one, and therefore the greater glory will redound to you; for, the East India Company, if you act true to its interest, will prove an ornamental chain; or, on the contrary, a mill-stone about your necks, that will plunge you into an abyss of in-

famy and disgrace; notwithstanding every support a king can give, and every effort majesty may make to save you from destruction.

General *Conway* spoke next, but directed his address chiefly to Mr. Burke, whom he said he should censure for preferring the French to the English government, did not the adage hold good, that there was no disputing about taste.

Governor *Johnstone* still pressed the postponing of the business, and intimated, that if the noble lord's Resolutions should pass, he was afraid the Company might be tempted to petition the House for leave to withdraw their proposals.

Mr. *Dempster* again rose, but the House being clamorous for the question he sat down, saying, that since he could not be heard, it was a comfort to him that he had at least endeavoured to do his duty. The question being called for, the Resolutions were carried without a division. The House then resumed; the chairman reported progress, and asked leave to sit again.

Debate in the Commons on the Third Report of the Secret Committee on the State of the East India Company's Affairs. March 30. Mr. Alderman Harley brought up the Third Report of the Committee of Secrecy appointed to enquire into the State of the East India Company's Affairs. After the Report had been read,

Mr. *Sullivan* said: I rise, Sir, to make a few observations on the report now read; and principally to remark, that it does not lay before us the information that was wanted, because it is not complete; and all the account that it gives of the Company's shipping is founded upon such half intelligence: now, Sir, let me ask, if the report informs the House of a disadvantage attending the large ships, which the report seems particularly to patronize? Sir, by the agreements entered into, for every 100 ton of the ship's burthen, she must have 20 men and five guns. The gentlemen who framed that report have not considered, that if ships of 1,000 ton were taken up, 200 men must be put on board, and 50 guns; which single circumstance shews such large ships to be at once out of the question. Now, Sir, as to sending out so many more ships than the report says were sufficient, I beg leave to observe, that we hear only of the imports; the exports are omitted: the report does not tell us of the tonnage necessary to carry out

the manufactures of this country which the Company now export; nor the recruits for the military; nor the stores and ammunition: all which are circumstances that certainly demand attention.

Mr. *Jenkinson*. The hon. member lays much stress on the proportion of guns and men in the India ships; but, Sir, where is the law that ties them to five guns and 20 men per 100 ton? He is talking rather to a committee at the India-house, than the House of Commons; we are to confine ourselves to the fact, that double the shipping has been employed to what was necessary: it is vain to talk of private regulations of their own making, respecting 99, and not 100; the point turns on the saving of a chaplain: if a ship has 100 men, there must be a chaplain by law; so the Company keeps within the statute.

Mr. *Dempster*. That this report is incomplete and inaccurate, I am well convinced: it contains, most certainly, a charge against the directors: that they will be able satisfactorily to defend themselves, I have not a doubt; and as the last report, which was an accusation of others, was printed, I move that this be printed also.

Mr. *Dyson*. It appears to me, that the gentlemen on the other side of the House mean to attack the report on the score of inaccuracy: now, Sir, the mode of doing it would be, not to speak to the matter, or to move for its lying on the table, or being printed, but to move its being re-committed for the further improvement.

Mr. *Dowdeswell*. I beg pardon for differing from the hon. member; but it appears to me very regular, for a member to open the objections he has to a report first, in order for a re-commitment afterwards.

Lord *Clive* said, he should move that the consideration of the report be put off to the 5th of April, when he should make several observations upon it, and enter upon a defence of his own conduct as well as point out the real situation of the Company's affairs both at home and abroad. The noble lord cast some reflections upon Mr. Wilks, the gentleman who attended the secret committee, and assisted them in their researches.

Mr. *Sullivan* bestowed the highest encomiums upon Mr. Wilks; who, as a servant of the Company, deserved the greatest applause for his integrity, candour, honour, and uprightness. As to the noble lord's vindicating his own conduct, Mr.

Sullivan said, his lordship would not have undertaken a task quite so difficult, had he proposed to vindicate the conduct of the court of directors.

Lord *North* said, that, had not the noble lord moved for the consideration of the report on Monday, he himself should have requested the House to defer it until that day, when his lordship said he intended to enter upon a discussion of several important affairs relative to the East India Company; such as the propriety of suffering them to continue for a few years longer in possession of their territorial acquisitions. His lordship disclaimed the thought of accusing, even in idea, any particular person; the reports now before the House contained matter which might serve for a ground of enquiry; and though accusations might be inferred from them, he would yet not permit himself to accuse a single individual, how mean or exalted soever.

The Report was ordered to be printed.

April 5. The order of the day being read,

Mr. *Dowdeswell* rose, with a Petition in his hand, from major Grant, brother-in-law to captain M'Kenzie. He was ordered to bring up the Petition, and the Clerk read it. The reason for preferring the Petition was as follows: The Secret Committee, in the Report last delivered in, had observed that one of the causes of the evils now existing in Bengal was the rapacity, and oppression committed by some of the Company's military servants in India. In proof of this observation, they reported that several charges of extortion, and other mal-practices, had been brought against a British subject. This British subject was no other than captain M'Kenzie, brother-in-law to the petitioner, who had been tried by a court-martial in India, and was most honourably acquitted of every misdemeanor laid to his charge. The Petition therefore set forth, That, previous to the delivery of the Report of the Secret Committee, a letter had been sent to the chairman, stating the several facts, and offering to invalidate every suspicion of guilt, which from the Company's records might appear against captain M'Kenzie, by the evidence of major Grant and others; but that the Secret Committee had peremptorily refused to hear such evidence, and had, though apprised of this, proceeded to make a report injurious

to the character, and detrimental to the honour, of captain M'Kenzie. Mr. *Dowdeswell*, after making several pertinent observations upon the injustice of this proceeding, moved, "That so much of the said Report as (in order to shew to the House in what manner many of the abuses stated in the said Report still exist in Bengal) contains charges made in India against a British subject there (the enquiry into which was not finished when the last ships were dispatched from Bengal) be recommitted."

Mr. *Jenkinson* defended the conduct of the Secret Committee, by defining the powers with which the members were entrusted; they extended not, he said, to the examination of the propriety of suits instituted, or the foundation of charges brought; they were simply to scrutinize into the books and records of the Company, so far as might lead them to gain an insight into their affairs; and they were then to make such reports of existing evils as might induce the legislature to apply adequate remedies for the future.

Mr. *Stracey* and Mr. *Dyson* spoke against the motion for a re-commitment of the clause.

Mr. *Edmund Burke* spoke for the re-commitment. He said, that taking the words of the report as they stood, nothing less than charges against some British subject could be intended; that not a single proof of those charges, other than bare assertions, was to be met with; and yet that the secret committee had admitted a charge in their report, which implied atrocious guilt, upon presumptive evidence, though positive was offered in contradiction to the charges, and in defence of the accused party. He also urged the necessity of re-committing the clause to preserve the order of the House, which would be infringed should it not be agreed to. As an illustration of this assertion, he had recourse to the following figures: suppose, says he, Sir, that mace, made use of to clear the way, was to be converted into an instrument to knock every man down who stood before you; or your train-bearer, Sir, instead of holding up your train, was to trip up your heels; similar to this is the order of the House when tyrannically, instead of decently, exercised; and that it would be tyrannically exercised, if this clause was not re-committed, he strenuously contended.

The question was put and negatived.

Debate in the Commons on the Resolutions to let the Territorial Acquisitions remain in the Possession of the East India Company for a limited time.] April 5.

The House having again resolved itself into a Committee of the whole House on the Affairs of the East India Company, Mr. Bacon in the chair,

Lord North rose and informed the House, that in answer to the Petition of the East India Company, the King had left the sole determination of the affair to that House. His lordship then proceeded to move the following Resolution:

“That it may be for the mutual benefit of the public and the East India Company, that the Territorial Acquisitions and Revenues lately obtained in India, should, under proper restrictions and regulations, remain in the possession of the Company, during a term not exceeding six years, to commence from the expiration of the present agreement between the public and the Company:

“That, during the said term, the public should forego all participation in the produce thereof, until the Company shall have repaid such sum of money as shall be advanced by the public for the relief of the Company, and until the bond debt of the Company shall be reduced to 1,500,000*l*.

“And that, from thenceforth, during the remainder of the said term, three-fourth parts of the surplus net profits of the Company at home, above the sum of 8*l*. per cent. per annum upon their capital stock, should be paid into the Exchequer, for the use of the public; and the remaining fourth part be applied, either in further reducing the Company's bond debt, or for composing a fund, to be set apart for the use of the Company, in case of extraordinary emergencies.”

In support of these propositions, lord North said; The very boundless importance of the business before us, demands the most assiduous and minute attention that this House can give it; and I doubt not, Sir, but parliament, through every stage of this momentous business, will enter into the most scrutinizing examination. The point to which I shall confine myself at present is the territorial possessions; and I think it necessary in this part of the affair to drop all examination, or declaration, of the right which the crown has to those possessions, since, from the motion which I have read, there is no want of such examination, as the territories are left, under conditions, entirely in the

Company. I think, Sir, they ought to be left for ever in the Company; I am fully and clearly of that opinion; if not from right, at least from policy. But, Sir, this depends upon their conduct; if they, in future, govern them no better than they have hitherto done, my opinion will be very different. Nay, I shall then think it advisable, notwithstanding the term mentioned in the motion, to reject their having the possession at the end of two, three, or four years. But it may be said, why six years? The reason of this period being named, Sir, is on account of the charter expiring in 1780; and as this agreement with the Company is to commence in February 1774, both will expire together; by which means, there will be the proper time not only to give the specified notice from the public to the Company of its intentions of receiving, but also, at the same time, settle for a further time the point of the territorial acquisitions.

Relative, Sir, to the particulars of the agreement explained in the motion, I think it is more for the advantage of the Company than the public. No man could more than myself regret the period of receiving 400,000*l*. a year from the Company; it was an object of great importance, and such a one as enabled us, and would have yet more enabled us, to ease the public, by lessening the national debt; but, Sir, great as that advantage was, I think we should lose sight of it, when the prosperity of the Company comes in competition. We are on a precipice; the object of 400,000*l*. we look down so far upon that its magnitude is diminished; and if we offer to stoop to grasp it, we shall fall headlong down to the ruin of ourselves, and the Company too. I am clearly of opinion, that the first business to be attended to, is to fix the Company on a firm and solid footing; and I think, the plan I have now laid down, is that which bids much the fairest for attaining that end.

The public, Sir, gives up all idea of receiving any the least advantage or participation, in the revenues of the territorial acquisitions, till the affairs of the Company are become solidly re-established; until 1,500,000*l*. is repaid the public, and until the 1,498,000*l*. of bond debts are also paid; that is, until they are reduced to 1,500,000*l*. Thus, Sir, the Company are to receive 3,000,000*l*. before the public receives one shilling. After this period, they are first to divide 8 per cent. on their capital (if their affairs will allow it), and

after that, three-fourths of the surplus of the neat profits of their trade and revenues are to be paid into the Exchequer; and as to the other fourth, I have named either a farther reduction of the bond debts, or forming a fund to answer contingencies. But, Sir, if any gentleman will propose a mode of applying this remaining fourth more to the Company's advantage, I shall readily come into it; my only exception is against its going into dividends; the only consequence of which can be the seeing the old trade going on again of gambling in India stock, and fluctuations upon every transitory affair that happens. Now, Sir, upon this plan, the Company must be able to divide 24 per cent. on their capital, in order for the receipt of the public to be equal to 400,000*l.* the sum before paid by the Company; which, I think, shews clearly that the Company is fully favoured in the proposed transaction. It is true, the public has received 2,200,000*l.*; and I must own I am very glad the Company had not that sum, for it would have all gone in the same manner as the rest of their wealth has been dissipated, in enriching their servants, and in running up their dividends unnaturally, to the ruin of numbers of proprietors.

I hope, Sir, such regulations may be framed as will put an end to the miseries of Bengal, and once more render the Company respectable; and I hope, that the commerce and affairs of the Company will be placed on a better footing by several circumstances; by the sale of tea duty free in America; by a great saving in the expence of their shipping; by payments of sums due to the Company, which they do not think at present of receiving; by freeing the Company from several expensive engagements which they are at present under, and upon other circumstances. And upon this general idea, I flatter myself that the credit of the Company will be re-established, without entirely overlooking the interests of the public.

Mr. *Dowdeswell* objected to almost every part of the propositions. He touched upon the right to the Company's territorial acquisitions, and strenuously maintained that the right to those possessions was vested solely in the Company, and that to talk of the public having any legal claim upon them, was to talk the language of absurdity, tinged with despotism.

As to letting the territorial acquisitions remain in the hands of the Company, this

[VOL. XVII.]

he said was an expedient fit for ministers like the present to adopt; they knew, he said, their own deficiencies, and though inclined to exert a right to which in strict legality they had no pretensions, yet they were obliged to wave the exertion of their assumed power, and postpone the gratification of their own views; conscious of their incapacity to manage an object too vast for their diminutive capacities, too extensive for their limited understandings. The court of directors were better qualified to manage the Company's affairs, than the present set of ministers were to manage the affairs of government. As an instance of the inattention and weakness of the ministry, Mr. *Dowdeswell* said, he had almost a year ago called for an estimate of the profits arising upon the imports and exports of sundry American articles, but he could never obtain a sight of such an estimate; the ministry, he said, had not abilities to make it, nor was there an office wherein such estimates were regularly entered.

Respecting the appropriation of the surplus profits after the dividend of 8 per cent. he asked how the money was to be applied? and what were the exigences it was appropriated to answer? On the whole, concluded Mr. *Dowdeswell*, if I was a proprietor of India stock, I should give my vote for totally rejecting every proposal the noble lord has made; and I should support that vote by several substantial reasons. So far from being terrified at the menace held out by the ministry concerning the territorial acquisitions, I should laugh at it, I should dare the ministry to lay hands on those possessions: they have no right to them; and if they had, they know their own incapacity too well to lay claim to a right, the judicious exercise of which far exceeds the powers of their scanty intellects.

Mr. *Edmund Burke* rose, and arraigned the conduct of administration. He said, that as to the right of the public to the territorial acquisitions, when it served the purpose of the ministry, it was contended for in the most peremptory manner; but when an assertion of that right militated against their measures, then administration loudly announced the nullity of the claim; or, if the legality of the claim was admitted, the bad policy of exercising it was strenuously contended for.

A right, said Mr. *Burke*, implied something settled, and established by certain known rules and maxims; it implied, in

[3 H]

short, a legal decision: for to talk of a right where no legal decision had been obtained, was to talk of a non-entity, and yet to argue as if it had an actual existence.

If you have a right (continued Mr. Burke)—if you have a right, upon what one maxim of law or equity is it founded? When was this right juridically discussed, and finally determined? On what day was the decision given? In what court are we to look for the record of this decision? To what does this right extend? To all, or only to some of the territorial acquisitions? If only to some, of what nature are they? How specified, described, and distinguished from the rest? If you have a right to all the Company's territorial acquisitions, you truly begin a redress of their grievances in a peculiar manner; to restore the ruined state of their finances, you plunder them of their property; and to re-establish the Company's affairs on a permanent basis, you suffer not the proprietors to have a foot of land in India which they can call their own!

Mr. Burke continued to observe, that an easy and simple method had been proposed of adjusting the Company's affairs, such as, if adopted, would have done honour to administration. But that this plan was rejected, and another had been preferred, contradictory to every principle of law, of equity, and the policy of nations. Mr. Burke added, that he had searched into the laws and constitution of this country. I have studied, said he, God knows; hard have I studied, even to the making dogs-ears of almost every statute book in the kingdom, and I now thus publicly and solemnly declare, that all you have been doing, and all you are about to do, in behalf of the East India Company, is impolitic, is unwise, and entirely repugnant to the letter as well as the spirit of the laws, the liberties, and the constitution of this country.

Mr. Burke further said, that the East India Company, annexed as an appendage to the British empire, rendered the whole an object of too vast a magnitude for the capacity of any administration whatever to grasp. That in the present dearth of genius, domestic occurrences were almost too much for the understandings of ministers: that the East India Company tied about their necks, would, like a millstone, drag them down into an unfathomable abyss; that it was well if it dragged not this nation along with them; for that,

for his part, he always had had his fears, and would now venture to prophecy his apprehensions, that this cursed Company would at last, viper-like, be the destruction of the country which fostered it in her bosom.

To strengthen this prediction, Mr. Burke referred to the total want of principle so observable amongst all ranks and degrees of people. The ministry, he said, were not to blame; it was the people, who were grown so indifferent to the welfare of their country on the one hand, and so grossly corrupt on the other, that there was no proposal, how destructive soever to the liberties of the kingdom, which a ministry could make, but what the people would readily comply with. They were, Mr. Burke said, a most servile degenerate herd, destitute of capacity to distinguish, or virtue to relish, what was good. In the proceedings relative to the East India Company's affairs, the justness of these censures was verified to a tittle; the people followed the cry of the ministry, changed as they changed, and varied their tones to keep even a discordant sameness with their masters. Do the ministry assert the public's right to the territorial possessions of the Company? "Oh," say the parliament and the people, "to be sure they have a right." Do the ministry talk of restraining? It is echoed back by the people, "by all means restrain." Is punishment hinted at? "Punish to the utmost," reply the people. Is lenity recommended? "Mercy is Heaven's darling attribute," rejoin the herd. Thus, not a single absurdity can be broached, nor a principle can the ministry lay down to-day, and contradict to-morrow, but votaries to these contradictions are instantly found among the people! Men have not strength of mind to think for themselves, the higher rank are all supineness, all indolent acquiescence, all ignorance; the vulgar are a set that will abuse at random, and are to be led on to commit crimes the most atrocious, if headed by some despicable wretch who has an interest to promote, by setting them together by the ears. This has been the case; the miller has belaboured the chimney-sweeper, and the chimney-sweeper the miller, and they now only wait the word of command to recommence the fray.

Mr. Burke observed, that these were sentiments not calculated to gain him popularity; nor did his opposition to the mi-

nistry arise from a latent view of getting into employment; it was dictated by the genuine opinion and sense he had of the measures now pursuing, which were such as had the completion of the plan of despotism for their end; that this plan he had hitherto and would continue to oppose with all his powers, with all the strength of reasoning of which he was master; that as to the East India Company, he foresaw it would be the destruction of this country; but that, for his part, he would sooner have the Company itself totally overthrown; he would sooner see it fall to ruin about his ears, than have the base of the English constitution undermined, or a single pillar, which contributed to the support of so excellent a structure, receive the slightest fracture, or be defaced in the minutest part.

The Resolution was agreed to without a division. The House resumed; the chairman reported progress, and asked leave to sit again.

Bill for regulating Private Madhouses.]

April 22. On moving the second reading of this Bill,

Mr. *Thomas Townshend* said:—I am sorry, Sir, that the second reading of this Bill should be before so thin a House; not that I imagine it will here meet with any opposition, but I am informed that it is likely to be received in a different manner elsewhere, and consequently it would have given a more general satisfaction for gentlemen to have been well apprized of its principles. I have framed it, Sir, with a view to remedying two evils; first, the admittance into madhouses, in order to prevent improper objects being received; and secondly, to rectify the treatment of persons after they are admitted. Sir, it is shocking to humanity to think that any persons should be forced into these miserable receptacles of wretchedness. The idea of any persons being taken in without the clearest grounds for supposing them really in that stage and degree of madness which makes the measure necessary, is certainly affecting, and should be guarded against with most careful attention: but at present these houses are under no regulation; they take in who and what they please, and are subject to no inspection; surely every gentleman must at once see the necessity of such a thing being under some regulation. In the next place, Sir, as to the treatment of the unhappy objects confined in these houses,

I must remind the House, that when the committee last session sat very diligently upon this matter, such instances of this were laid before them, that never conviction could be stronger than the necessity of a reform. It appeared, Sir, that within seven miles of London, there are eighteen of these houses; there must be very many poor creatures therefore, and the object of a magnitude highly deserving the attention of the House.—I have proposed in the Bill, Sir, that no person should be received into these houses without being examined by persons appointed by the college of physicians; and also, that the same learned body should appoint inspectors to examine the houses, and all the persons confined in them, once or twice a year; it is not determined which, as there was a difficulty in this point, from not knowing whether the fund provided, would answer more than one annual visitation; the keepers of such houses are also to take out a licence from the same college. By these regulations I apprehend no person not mad, can ever be taken in; and that when any are justly received, they shall be well taken care of; points all highly essential. I can assure the House, that the college of physicians do agree to the plan, and are very ready to undertake that part of the business which the Bill assigns them. Nor should I omit, in gratitude, to acknowledge the great assistance that you have given in framing this Bill. Upon the whole, Sir, I hope gentlemen will give it a hearty concurrence; and that in case it does not succeed this session, it will do so some time or other by the force of its own merit. It has been suggested that this Bill will abridge the power of the lord chancellor over lunatics; but, Sir, this is a great mistake; on the contrary, it will facilitate the operations of that court, and enlarge its power.

The Bill was then read a second time.

Proceedings on Mr. Wilkes's Complaint against the Deputy Clerk of the Crown.]

April 26. Mr. Wilkes went into the rooms belonging to the Clerk of the House of Commons adjoining to the House, and demanded to be sworn in before a commissioner. He likewise sent to a commissioner by another member to demand the commissioner to administer the oaths to him as one of the members for Middlesex. The commissioner refused to swear him in. Mr. Wilkes then desired a member to state that fact to the House, and

sent the following Paper to Mr. Glynn :

“ Mr. Wilkes complains against Mr. Frewen, Deputy Clerk of the Crown, for refusing him the proper certificate as one of the knights of the shire for the county of Middlesex, and against Mr. Stracey, one of the clerks of the office where the members are usually sworn, who informed Mr. Wilkes, that in the course of office no member can be sworn, who is elected since the general election, without producing a certificate of such election from the Clerk of the Crown.

“ JOHN WILKES.”

“ Room belonging to the Clerk of the House of Commons, Monday afternoon, three o'clock, April 26, 1773.”

Mr. Serjeant *Glynn* immediately made a motion, “ That Mr. Wilkes be called in, to make good the matter of his complaint against Charles Frewen, esq. Deputy Clerk of the Crown, for refusing him the proper certificate of his return, as one of the knights of the shire for the county of Middlesex.” The question being seconded by Mr. Sawbridge, a short debate arose, and the House divided; the Yeas went forth.

Tellers.

YEAS	{	Mr. Ald. Sawbridge -	}	124
		Mr. Baker - - -		
NOES	{	Lord Lisburne - - -	}	227
		The Earl Sefton - - -		

So it passed in the negative.

Whilst the members who divided in favour of Mr. Serjeant Glynn's motion were in the lobby, encouraged by the fulness of the House, and the numbers who rather unexpectedly joined them, they, after a short consultation, determined to take advantage of the favourable circumstance. Accordingly, sir George Savile was applied to, who readily agreed that then was the proper time to renew his motion relative to the Rights of Election. Sir George therefore gave notice in the lobby, that the moment the division was finished, he should make another “ for leave to be given to bring in a Bill for more effectually securing the rights of the electors of Great Britain, with respect to the eligibility of persons to serve in parliament.”

As soon as the Serjeant's motion was determined, sir George Savile made his motion, and Mr. Dowdeswell seconded it.

Mr. *Edmund Burke* urged the necessity of the motion. He applied the case of Mr. Wilkes as an event in the womb of

futurity, which might possibly happen to every member of the House of Commons; he stated the inconveniences which had arisen, and those which would hereafter arise, unless the violated rights of election were restored to their pristine state of purity. He arraigned, in the most poignant terms, the conduct of the ministry, and foretold, that, whatever might be the event of the division on the motion then before the House, there would come a time when those now in office would be reduced to their penitentials, for having turned a deaf ear to the voice of the people; they would, he said, yet have reason to execrate themselves for having dared to infringe upon the liberties, and sport with the laws, the franchises, and constitution of their country.

Mr. Freeman and several other members spoke in favour of the motion. The question being called for, the House divided; the Yeas went forth.

Tellers.

YEAS	{	Mr. Byng - - -	}	151
		Mr. Cavendish - - -		
NOES	{	Mr. Onslow - - -	}	201
		Mr. Thomas Edwards - - -		
		Freeman - - -		

So it passed in the negative.

Resolutions allowing the East India Company to export Teas duty free. April 27. In a committee of the whole House to consider further of the Affairs of the East India Company,

Lord *North* rose and observed, that throughout the whole examination, which the House had made of the East India business, nothing could possibly have been more attentive to their interest than his motions, and also the House in accepting them; that it was evident, the public would suffer from the very faulty way in which the Company had conducted their affairs, even to the loss of 400,000*l.* a year; and now, instead of that receipt, were obliged in policy to lend the Company nearly four times that sum; that although there was a prospect of a large advantage on the side of the public, so there ought certainly to be on every consideration; that he had now, in pursuance of these favourable ideas of the Company, a proposal to make, which would be wholly to their advantage: it was to allow the Company to export such part of the tea at present in their warehouses to British America, as they should think pro-

per, duty free. This would be prodigiously to the advantage of the Company, as they had at present above 17,000,000 pound by them. The converting a part of it into money would greatly ease them, and be attended with those good consequences which are now so necessary to re-establish their affairs: that this measure would be lessening the revenue of the customs; yet he had proposed it with a view to give the Company all possible assistance. He concluded with moving the following Resolutions, which were agreed to:

1. "That, upon all teas, which shall be sold at any of the East India Company's public sales, or be imported under licence, after the 10th day of May, 1773, and shall be exported to any of the British plantations in America, a drawback be allowed, of all the duties of customs paid upon the importation of such teas.

2. "That provision be made, for empowering the commissioners of the Treasury to grant licences to the East India Company, to export teas to the British plantations in America, or to foreign parts; provided that, at the time of taking out such teas for exportation, there be left remaining in the Company's warehouses a quantity of tea not less than ten millions of pounds weight; and that, upon all teas which shall be so exported, a drawback be allowed, of all the duties of customs paid upon the importation of such teas, and an exemption from the inland duties charged thereupon."

Debate in the Commons on the Petition of Mr. Harrison the Inventor of the Time Keeper.] April 27. The Petition, presented from John Harrison, the inventor of the time-keeper; setting forth his claim of 10,000*l.* the remaining moiety of 20,000*l.* offered by parliament for the discovery of the longitude, was again read.

Sir George Savile.—I think, Sir, it is a disgrace to this nation, that a man who, as his Petition sets forth, has spent 40 years of a life of now 83, in studying and making so great a discovery as his watch most certainly is, should still remain without his reward, though he had the positive engagement of parliament to depend on. I much wish, Sir, that he might at once have his just due; and that speedily, lest heaven should give him that reward which his country most unjustly denies him. By the Act of queen Anne, which offered the premium, he is absolutely entitled to it,

his watch having gone to the West Indies, with an accuracy in the performance much within what is required by that Act. But by the last Act, which was explanatory of the first, and which was framed in consequence of his claim, there arises such difficulties, that it seems the board of longitude cannot do justice. This, I think, is so great a grievance upon a man who has made a discovery highly important to that art, upon which the wealth, power, and happiness of this country so essentially depends, that it would be to the last degree cruel, not to repeal it, in order that he may have his claim adjudged by the first.

Mr. Dyson spoke to the form of this matter, being against sir George's proposal.

Lord North remarked, that as Mr. Harrison, in his petition, rather arraigned the board of longitude, and observed, that the board had required other watches and experiments to be made, which were not yet concluded, it would be proper to call for the ministers of that board, relative to the transactions concerning Mr. Harrison, before a conclusion could be come to.

Mr. Edmund Burke:

Mr. Speaker; I must own, I am astonished at the replies which have now come from the other side of the House. Where, Sir, is the dignity, where is the sense, where even the justice of the representative of a great, powerful, enlightened, and maritime nation, when a petition of a man is laid before them, claiming not favour, but justice; claiming that reward which law would give him, and to see it refused—upon what principle? Why, a man of 83 is to make new watches; and he is not only to make them, but to make new voyages to the Indies to try them. Good God, Sir, can this be a British House of Commons? This most ingenious and able mechanic, who has spent about 40 years of an industrious and valuable life in search of this great discovery—and has discovered it; who has, according to the verdict of the whole mechanical world, done more than ever was expected—and even gone beyond the line drawn by that Act of parliament, in consequence of which he undertook the work—this man is now, at the age of 83, to have his legal right withheld from him, by adhering to an Act which stands between him and his reward. This instance will be a fresh one, Sir, added to the long and black catalogue of genius and parts being exerted

through long courses of lives, into the service of the public, and ending in poverty and misery,—monuments of the base ingratitude of mankind! It is a case, Sir, that will admit of no delay: form is to come between such a man and his reward: we are to have papers called for with all the loss of time attendant thereon, before the inventor of this noble discovery is to have his just rights. Is this a conduct worthy of the munificence of this House? Of a nation that owes to her navigation, her wealth, her consequence, her fame!

Lord *North* rose in explanation, and in a candid manner professed himself much inclined to do justice to Mr. Harrison. He said the papers might be had in four and twenty hours; and exculpated himself from designed delays.

Mr. *Burke* answered, that nothing could be farther from his idea, than to be so ill a friend to Mr. Harrison's cause, as to irritate the noble lord. He meant no such thing, and assured the House he wished only to induce the Treasury speedily to do the old man justice.

Ordered, That the commissioners for the discovery of the longitude at sea, do lay before this House, copies of all the minutes and proceedings, had before the said board, relative to any application, made by John Harrison, for the reward granted for the discovery of the longitude at sea.

Debate in the Commons on the Bill to prevent vexatious Removals of the Poor.

April 28. Mr. Graves moved for leave to bring in a Bill to prevent unnecessary and vexatious Removals of the Poor. How inconsistent is it with reason, said Mr. Graves, that young, hale, vigorous men, whether labourers in agriculture, or manufacturers who are well able to maintain themselves—nay, more than able to do it—should, on their offering to marry, have notice from the parish officers, that they shall remove him as likely to become chargeable? Is not this, of all other means, the most effectual to prevent and check population? And did ever any nation under heaven grow great by checking population? Suppose, Sir, the couple, in spite of this infamous notice, should persevere in their intention, and marry; they are removed. Gentlemen may say, what harm in that? Why not live in one parish as well as another? I will tell such gentlemen wherein is the mischief; the removal carries them from a place where

they can earn 15s. a week by manufactories, to another where they can get but 10s. by agriculture; from a place where agriculture pays them 12s. to another where manufactures pay 8s., from places where the whole art and skill of the pauper is confined to a branch of manufacture which supports him amply, to another place where his skill is of no use, and he starves! This appears to be a system rather of barbarity, than of an enlightened policy.

Sir *Cecil Wray*. I am against the bringing in of this Bill, because I think it will create more evils than it will cure. Sir, the great mischief of our poor laws is the very heavy burthen they lay upon the country by rates: now, I apprehend, that this Bill will increase the rates, by burthening parishes with more poor than their own, which appears to be a great evil. Complaints, I am informed, will come before you to-morrow from the weavers of Spitalfields; those weavers, if this Bill passes, may march into the country, and fix, ere long, upon any of our estates. What gentleman would wish for this?

Mr. *B. Gascoigne*. I beg leave to answer for one, that I would receive them with pleasure.

Sir *John Molesworth*. I live, Mr. Speaker, in a very cheap country, and they shall all be welcome to fix on my estate.

Other members rising to speak to the same purpose,

The *Speaker* said, well! well! it is plain there are enough will receive them.

Sir *John Turner*. Why not set your own people on the same footing as the Scotch and Irish, whom you cannot remove without their committing an act of vagrancy, I am for the Bill.

Mr. *Whitworth*. Sir, I have known to the amount of thirty or forty families sent off by removal orders in one day; a scene highly scandalous, and urging in the strongest manner the necessity of the Bill.

Sir *W. Meredith*. I am entirely for the Bill, and beg leave to wish the hon. member would add 'cruel' to 'vexatious' removals. Coming up to town last Sunday, I met with an instance shocking to humanity: a miserable object in the agonies of death, crammed into a cart to be removed, lest the parish should be at the great expence of the funeral. [Here the whole House expressed their horror by their emotions.] Other instances every day met with, are the removals of women with child and in labour, to the

danger of both their lives, lest the child should be born in their parish. These are cases which ought and must be remedied.

The Bill was ordered to be brought in.

Debate in the Commons on the Charitable Donations' Bill.] April 29. Mr. Solicitor General Wedderburn moved the second reading of the Bill, "to constitute a public fund, upon which donations to charitable and other good uses in mortmain may be invested; and to empower all bodies politic and corporate, and trustees of charities, to invest the same; and to sell and dispose of all or any part of the lands, tenements, and hereditaments, in trust, for charitable uses, if they think fit; and to invest the produce in the purchase of some of the government transferrable securities, at 3 per cent. per annum, in order that the same may be annihilated, and, in lieu thereof, an annuity out of the said public fund may be paid, and applied to the same charitable uses to which the lands, tenements, and hereditaments, are appropriated."

Mr. Field rose to give his opinion in general against the Bill; an opinion which he grounded principally upon the fatal effects which he thought might ensue from taking this money from a permanent security like land, and vesting it in a security subject to all that vicissitude to which money was subject; so that, if the value of money fell in the manner it had done, that amount which was now sufficient for answering the ends of the charity, would, 200 years hence, scarce keep the objects from misery.

Mr. Solicitor General Wedderburn replied, by stating, in a very candid manner, the principles upon which the Bill was framed; he remarked, that all the statute books bore witness to the objection which the legislature had to lands in mortmain: that a large part of the kingdom being such, was undoubtedly a great evil; and the change of this property to being vested in the funds, he observed, must have an excellent effect on public credit, by such a portion of them being free from all the knavery and other effects of sales and transfers: that he had consulted many gentlemen upon the subject, who had stated their doubts and objections: that the principal seemed to be the insecurity of the funds when compared with land; but he observed, that the funds would last as long as the government; and he appre-

hended very few gentlemen would be desirous of charities being more permanent than the government.

Mr. Edmund Burke answered him with infinite candour and ability. We do not remember that gentleman making a speech in which he stuck so close to the argument, and made so few flights into the regions of fancy and imagination. He set out with observing that the principle of the Bill turned upon the principle of permanent charities; if the latter are proved to be erroneous—if from reasons not yet produced, I should be convinced, said he, that the land thus applied is misapplied, and that the permanency of the charity ought in fact to be changed for that sort of security which the stocks offer. If these principles are taken, then, I admit the Bill appears to be excellent. But Sir, continued he, this has not been proved: I am not by any means able to prove the contrary.—I am not prepared for the occasion—I can express nothing but my doubts—I should disdain particularly to oppose a Bill, which I had only generally considered: I am sure the learned member will do me justice to believe this. Now Sir, if the principle of the expediency of permanent charities be admitted, (mark, I do not make the assertion, but only observe that the contrary has not been proved), then I say that we ought to continue those charities upon a permanent footing; this, Sir, I maintain the stocks will not be: they are subject to changes which this constitution is not subject to: king, lords, and commons, with the land will, I trust, remain long after the stocks are in the dust: no man is more anxious than myself for the support of public credit; but I shall never be brought to consider the permanency of credit, and government as the same. The very interest is not permanent. One war, to add two millions a year to it! How long will it be before another and another comes?—such a period is nothing to permanency. To me, added he, nothing can be greater than the distance between land and stock in this article of permanency. He then shewed, in a very able manner, the excellence of such institutions as the universities and great schools, which, though excepted in the Bill, would have reason to dread the first appearance of a doctrine which threatened them, though at a distance.

The Bill was then read a second time.

May 6. The House went into a Committee on the Bill. Many objections were made by sir W. Bagot, Mr. J. Townshend, lord Fortrose and others, to the principle of the Bill; and as several objections were made upon the point of rendering the sale open and fair, sir Richard Sutton brought up a clause, enacting, That notice should be given in the London Gazette of the intended sale, and that it should be proclaimed in court at the sessions; that the sale should be in open court; that the names of the buyer and seller and price, should be recorded by the clerk of the peace, and open to the inspection of all persons.

Mr. *Lascelles*. I have a great objection to this clause. Sir, can it be thought that the open court is a proper auction-room; and pray who is to be the auctioneer? The chairman? It will be a pretty sight to see the chairman of the bench turn auctioneer.

Mr. *Solicitor General*. The clause appoints the sale to be in the open court, merely to give it a notoriety; but the gentleman mistakes the matter much, to suppose that there will be any indignity upon the chairman to be present, for that is the whole of it, during the time of the sale. It is common in the exchequer, and also before the masters in chancery, who are certainly men of consequence.

Sir *W. Bagot*. I am quite against the principles of this Bill, but shall confine myself at present to the point before us. I am apprehensive, notwithstanding this clause, that powerful and rich men, who are trustees, will be, through influence, both purchasers and sellers; and contrive how you will, this will be, in many cases, the objection.

Mr. *Solicitor General*. I cannot agree with the hon. gentleman; when the sale is rendered sufficiently notorious, I cannot see any possibility of the person who is trustee and purchaser, getting the lands below their value; for there will always be found men, who either through pique or interest will bid against him: men, who see that the trustee wants the estate, will, if it is going below the value, buy it with a view to make money by the re-sale of it.

Mr. *Sawbridge*. I am not at all apprehensive of the estates selling below their value. Sir, there are in every county a number of land-jobbers, who are ever ready to bid and run up every thing that comes to market.

Lord *Fortrose*. I beg leave to ask the hon. and learned gentleman whether the

trustee, if he sees there is a likelihood of being many bidders, may not, as private people do, change his mind, and not sell, with a view to buy cheap afterwards himself.

Mr. *Solicitor General*. As a private person, he might; but as a trustee, after public advertisement, certainly not.

Mr. *T. Townshend*. This matter appears of much consequence; and, I own, the noble lord's objection does not appear to be sufficiently answered.

Mr. *Solicitor General*. I am a little surprised the hon. gentleman does not at once see the point upon which the security turns. Suppose the trustee to design being the purchaser, and when he sees a probability of the estate selling well, he will not allow of the sale: this, I think, was the noble lord's objection. Now, he must either keep the estate unsold, or he must buy it cheap himself: if he keeps it unsold, no harm is done to the charity: if he buys cheap himself, mark to what he lays himself open; he may be prosecuted in the courts of law, and will be liable not only to very heavy expences, but to pay all the damage which the charity can possibly have suffered by not selling the estate at its real value; and it will not only lie upon the poor people to make him do this; the land-jobber or any other person who wished to have the estate, will be instigated by pique, resentment, and even interest, to prevent it.

After much conversation the Bill went through the Committee.

Petition of the East India Company against the Resolutions of the House of Commons for restricting the Dividend, &c.
May 3. The following Petition of the East India Company was presented to the House of Commons:

"To the Honourable the Commons of Great Britain in Parliament assembled.

"The humble Petition of the United Company of Merchants of England trading to the East Indies.

"Sheweth,

"That your petitioners observe, with the greatest concern, that some of the most material articles of the Propositions which they humbly presented to this honourable House on the 2d of March last are substantially rejected by the Resolutions of this House on the 27th of this month.

"They humbly conceive, that after the

loan which they presumed to request from parliament (not less for the credit of the public than their own) shall be fully discharged, it seems unreasonable to require any further terms on account of the said loan.

“That the limitation of the Company's dividend to seven per cent. after the discharge of the said loan until their bond debt shall be reduced to 1,500,000*l.* appears to your petitioners to be a limitation not founded upon any just calculation of the Company's commercial profits; nor can it with reason be alleged, that it is necessary either to their credit or that of the public that they should be so restrained, as the additional dividend of one per cent. contained in the Company's propositions, though an object of considerable consequence to the proprietors, could be no material delay to the reduction of their bond debt.

“Your petitioners humbly submit to this honourable House, that the hardship of this limitation is exceedingly aggravated by a consideration of the great losses, which they as proprietors have sustained, and the expences they have incurred in acquiring and securing the territorial revenues in India, at the risk of their whole capital, while the public have reaped such great advantages, more especially as they received repeated assurances from their late chairman, that the intentions of the Chancellor of the Exchequer were totally different in this respect. Upon the faith of these assurances, the proposals which have been made the ground of the said restrictive resolutions were offered by the Company to parliament; restrictions which they cannot but consider as peculiarly hard upon men who have already suffered so much.

“Your petitioners most humbly beg leave to represent to this honourable House, that the resolution limiting the Company to a term not exceeding six years for the possession of their territories in India appears to be altogether arbitrary, as it may be construed into a conclusive decision against the Company respecting those territorial possessions, to which they humbly insist they have an undoubted right, a right against which no decision exists, nor any formal claim has ever been made.

“That the Company with all deference and humility beg leave to represent to this honourable House, that they cannot acquiesce in the resolution whereby three-

[VOL. XVII.]

fourth parts of the surplus net profits of the Company at home above the sum of eight per cent. per annum upon their capital stock should be paid into the exchequer for the use of the public, and the remaining fourth part be applied either in farther reducing the Company's bond debt, or for composing a fund to be set apart for the use of the Company in case of extraordinary emergencies; because such disposal of their property otherwise than by their own consent, by a general description comprehending their trade as well as revenues, does not appear warranted even by the largest pretensions that have ever been formed against them: and they most humbly represent, that when your petitioners offered a participation in a different proportion of the said surplus, it was in the full assurance that they might freely enjoy the remainder.

“That the limitation prescribed by the said resolution respecting the application of the one fourth part allotted them in such participation, after payment of all their simple contract debts, and after reducing their bond debt to the point of credit which this honourable House has fixed, appears to your petitioners to be so subversive of all their rights and privileges, by denying them the disposal of their own property after all their creditors shall be fully secured according to law, that rather than submit to such conditions as proceeding from their own consent expressed or implied, they beg leave most humbly to declare to this honourable House their desire, that any claims against the possessions of the Company, that can be supposed to give rise to such restrictions, may receive a legal decision, from which, whatever may be the event, they will at least have the satisfaction of knowing what they may call their own.

“Your petitioners, therefore, humbly pray, that this honourable House will not annex such terms to the loan requested by the East India Company as will tend to weaken the good faith and confidence which the subjects of this country ought ever to have in the justice of the legislature.”

Ordered to lie upon the table.

Debate in the Commons on the Resolutions for the Regulation of the East India Company's Affairs.] May 3. The House having resolved itself into a Committee of the whole House to take into further consideration the af-
[31]

fairs of the East India Company, Mr. Bacon in the chair, Lord North opened the debate with a long speech much of which consisted of general reasoning, but contained the substance of several future motions. His lordship, among other things proposed, That the court of directors should, in future, be elected for four years: six members annually; but none to hold their seats longer than four years. That no person should vote at the election of the directors who had not possessed their stock twelve months. That the stock of qualification should instead of 500*l.* be 1,000*l.* That the mayor's court of Calcutta should be for the future confined to small mercantile causes, to which only its jurisdiction extended before the territorial acquisition. That in lieu of this court, thus taken away, a new one be established consisting of a chief justice, and three puisne judges. That these judges be appointed by the crown. That a superiority be given to the presidency of Bengal, over the other presidencies in India.—His lordship concluded with moving, "That it is the opinion of this Committee, that the House be moved, that leave be given to bring in a Bill, for establishing certain regulations for the better management of the affairs of the East India Company as well in India as in Europe."

Lord Clive got up, and solicited the indulgence of the House to a few facts which had been partially stated; and as he was pleading for what was dearer to him than life, his reputation, he hoped the Committee would patiently hear him. He then went through one of the Reports of the Secret Committee, and quoted the different passages which concerned him. His lordship was very particular in examining the Report; and in answer to the passages which accused him of appropriating part of the revenues of Bengal, he read extracts of the nabob's letter to him as president of the select committee, of the committee's letter to the directors, and finally the directors' letter of approbation to him. His lordship afterwards observed, that trained in a school of war and politics, as he had been for 20 years, he was now in the school of philosophy; and if patience was a virtue, he had no doubt of being very virtuous indeed. He enlarged very fully on the misconduct of the directors; and after arraigning in the severest terms the unpardonable remissness of former administrations, in neglecting the affairs of the

India Company, he declared, that the mismanagement abroad was founded upon mismanagement at home. He then entered very particularly into the malevolence and artifice of his enemies, and to prove the zeal with which one of them attacked him, he read part of a conversation between the late deputy chairman and one of the first clerks in the India-house, in which the late deputy chairman (sir George Colebrooke) made use of these remarkable words, "I want to mark the man" (meaning his lordship).

Lord Clive proceeded to exculpate himself, and declared he went out to India the last time promising not to add a shilling to his fortune, either directly or indirectly, and which he declared to God he had religiously obeyed. His lordship ironically complimented the vast extent of abilities of lord North, in limiting the continuance of the territorial acquisitions in the Company's possession for six years. He said he might call his lordship the lion of government, and the India Company the jackall, or lion's provider; that he had already seized upon three quarters, and no doubt when the lion had been out hunting, and was returning hungry, the remaining quarter would be seized also; that he stood there as an independant man, ready to give government every honourable assistance; that he would do, and farther would not be expected of him, with respect to the East India Company; that he lamented their situation; that they had long been tampered with by quacks; even till they were reduced to an absolute consumption, and had thrown themselves upon parliament, as the only and true physician that could effect a cure.

His lordship remarked, that for these two years past the directors, either through ignorance or design, had kept the affairs of the Company a secret; that they had rioted at taverns, dissolved in dissipation and luxury, and had venison, turtle, and other choice viands in and out of season, with burgundy, claret, and old hock; that they entirely neglected their duty, and employed a man to think for them (Mr. Wilks) to whom they allowed 400*l.* per annum, and that many of their orders were so absurd and contradictory, that their own servants were almost justified in refusing obedience to them.

I left (continued his lordship) India in January 1766, in profound peace, and in which it was likely to remain. The expence of the military at that time, though

heavy, was nothing equal to what it is now; I expected it would, instead of increasing, have been reduced. Much virulence and malevolence has been employed against me; and it is with real concern I find myself reduced to the sad necessity of being the herald of my own fame. I have served my country and that Company faithfully; and had I been employed by the crown I should not have been in the situation I am at present; I should have been differently rewarded; no retrospect would have been had to sixteen years past, and I should not have been forced to plead for what is dearer than life, my reputation.

— My situation, Sir, has not been an easy one for these twelve months past; and though my conscience never could accuse me, yet I felt for my friends, who were involved in the same censure as myself. Sir, not a stone has been left unturned, where the least probability could arise of discovering something of a criminal nature against me. The two committees, Sir, seem to have bent the whole of their enquiries to the conduct of their humble servant the baron of Plassey; and I have been examined by the select committee more like a sheep-stealer than a member of this House. I am sure, Sir, if I had any sore places about me, they would have been found; they have probed to the bottom; no lenient plaisters have been applied to heal: no, Sir, they were all of the blister kind, prepared with Spanish flies, and other provocatives. The public records have been ransacked for proofs against me; and the late deputy chairman of the India Company, a worthy member of this House, has been very assiduous indeed,—so assiduous in my affairs, that really, Sir, it appears he has entirely neglected his own. As the heads upon Temple Bar have tumbled down, and as there appears no probability of their being replaced, for Jacobitism seems at an end, at least there has been great alteration in men's sentiments within these ten years; I would propose, Sir, that my head, by way of pre-eminence, should be put upon the middle pole; and his Majesty having given me these honours, it is proper they should be supported: What think you then of my having the late chairman and deputy chairman on each side? [Here the House burst out into applause, and remained in a fit of laughter for nearly ten minutes.]

I will now say a word to the proposed regulations of the noble lord: I

agree with him, Sir, that the annual direction has been in a great measure the cause of the great distress of the India Company; and I also agree, that every proprietor should possess 1,000*l.* stock, and be in possession twelve months before he can be qualified to vote.—His lordship then expatiated on the great temptation in India; that the country had been governed by a set of boys, and numberless abuses had been committed; that with respect to the mottut, he never heard of it until last summer, when he was in Shropshire; but though a sum of 5,000*l.* was of little moment where the receipts amounted to four or five millions, yet great abuses had been made of it; that as to jaghires, they were as commonly given by the princes in that country, as pensions, lottery tickets, and other douceurs were by the minister in this.

Mr. *Sullivan* declared, that though he and the noble lord were enemies, and probably should continue so till the day of their deaths, yet he had never pursued him with the least malevolence; that if he had, he should long since have mentioned a suppression of sixteen months correspondence, which had been repeatedly called for by the directors, but to this moment evaded; and in them it could be proved, that his lordship was the sole cause of their present distress; that he would not have mentioned this fact but in the warmth of his temper, when he was unjustly accused.

Lord *Clive*, in answer, declared, that on his return from India, he gave those papers, with several others, to one Campbell, a Scotch author, in Queen-square, and he had never seen them since.

General *Carnac* declared that he never had any other object than the public good: had he embraced every opportunity, or not been remarkably moderate, he might have had four times the fortune he had; that what he possessed, was acquired in the military line; and that he never was concerned in trade, except in salt, which he had only a small share of.

The Resolution was then agreed to, and on being reported to the House on the following day, it was ordered, "That leave be given to bring in a Bill for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe: and that Mr. Bacon, lord North, Mr. Onslow, Mr. Dyson, Mr. Charles Townshend, Mr. Charles James Fox, Mr.

Attorney General, Mr. Solicitor General, Mr. Cooper, and Mr. Robinson, do prepare, and bring in, the same."

Debates in the Commons on General Burgoyne's Motions relating to the Conduct of Lord Clive in India.] May 10.

The order of the day, for taking into consideration the Report, which, upon the 26th of May in the last session of parliament was made from the committee, who were appointed to enquire into the nature, state, and condition, of the East India Company, and of the British affairs in the East Indies; together with the Reports, made from the select committee, appointed in this session of parliament, to enquire into the nature, state, and condition, of the East India Company, and of the British affairs in the East Indies, upon the 8th and 21st of April last; and also the several Reports made from the committee of secrecy, appointed to enquire into the state of the East India Company (and, for that purpose, to inspect the books and accounts of the said Company; and to report to the House what they find material therein, in respect to the debts, credits, and effects, of the Company, as also to the management and present situation of the Company's affairs; together with their observations thereupon) being read,

General *Burgoyne*, who brought up the Report of the select committee, after explaining the disagreeable situation in which he stood, declared, that there were accounts of crimes contained in the report, which shocked human nature even to conceive. He said, that he looked upon the deposing Surajah Dowlah, and bringing about a revolution in favour of Meer Jaffier in the year 1756, to be the origin of all those subsequent evils, which had operated to the temporary distress, if not total destruction of the Company.

He enlarged upon the perfidy used to bring about that revolution: he stated the fictitious treaty, forged in order to elude the payment of the stipend promised to Omichund, a black merchant and confidant of Surajah Dowlah, whom lord Clive and the select committee in India prevailed upon to join in a scheme to dethrone his master: he exposed the conduct of lord Clive in causing admiral Watson's name to be signed, contrary to the admiral's express inclination, to this treaty. This, added he, was a transaction upon which I particularly lay my hand, as in consequence of this, first began the sys-

tem of corruption. The select committee then demanded of the new nabob twenty lacks of rupees for their own use, above what the fleet and army had bargained for; this was the origin of the successive revolutions and the successive rapine.

The general concluded his speech by saying, that the perfidy of Omichund was of the blackest dye; and, as to the proceedings of the select committee in India, I will allow them to be (ironically) of the whitest kind. The general then proposed the following Resolutions, and said, that, if they met with the approbation of the House, he should move, that persons who had acquired sums of money by presents or otherwise in India, if they had acquired such sums by virtue of their acting in a public capacity, should be forced to make restitution:

1. "That all acquisitions, made under the influence of a military force, or by treaty with foreign princes, do of right belong to the state.

2. "That to appropriate acquisitions so made, to the private emolument of persons entrusted with any civil or military power of the state, is illegal.

3. "That very great sums of money, and other valuable property, have been acquired in Bengal, from princes, and others of that country, by persons intrusted with the military and civil powers of the state; which sums of money and other valuable property have been appropriated to the private use of such persons."

Sir William Meredith:

Mr. Speaker; as I had the honour to second the motion for an enquiry into East India affairs last year, I now rise to second a motion, which is nothing more than to give effect to that enquiry. Sensible of the obloquy that follows the part of an accuser, yet am I the less unwilling to take that painful and distressful part upon me; because, thinking myself as insignificant as any member of this House can be, it is of the less consequence whatever may happen to me.

It was my wish that this enquiry might have been directed, not to persons, but to things. I should have been better satisfied, if the enquiry had been confined to the single object of laying before parliament a comparative state of the profits arising to Great Britain from the East Indies; what they were before, and what since, we acquired the kingdom of

Bengal. This comparison would have brought to our contemplation, and would have led us to the discussion of these several points: whether we are in fact losers, or gainers, by the territory; and if gainers, whether the advantages compensate for the certain, as well as eventual, expences of maintaining it? We then might have debated, whether the constitution may not be endangered, as well as morality subverted, by such sudden influxes of wealth as naturally must occasion a still further increase of luxury, corruption, and avarice. We might also have considered whether it is at this crisis prudent, whether it is rational to make so vast an addition to the British empire, sinking already under the weight of its own greatness.

These I say, Sir, are the points to which I not only wished but proposed to direct the attention of the Committee. My opinion was over-ruled. The Committee proceeded on a different and doubtless much better plan. They have inquired into the conduct of persons who have had great trusts, and borne high offices in the East Indies.

The question therefore now before us, is, What is fit for us to do upon those facts which the reports contain? There is a noble lord who has been a principal actor on this stage, whose knowledge is as perfect as his reports are true; and this noble person, in one of his letters to the directors, tells them, that every spring of this government is smeared with corruption; that principles of rapacity and oppression universally prevailed; and that every spark of public sentiment and public virtue is extinguished in the unbounded lust of unmerited wealth. After this evidence, Sir, are we to establish this corruption; are we to give line and scope to this spirit of rapacity; and gratify this unbounded lust of unmerited wealth? Or, shall we try (if I may use the words of a great man on a similar occasion) ‘*si istud genus infinitæ pecuniæ per summam injuriam cogendæ nullo modo reprehendi possit?*’” Cicero in Verrem.

There are but two possible ways to bring about reformation in the East Indies; the one by law, the other by example. As to law, I cannot comprehend how it is practicable to enforce laws made by us here in a country too remote to be within the reach of controul. They may be a restraint on the subjects of England within a certain district, but no more. It is proposed that English judges be ap-

pointed by the King to go to India, and to reside at Calcutta. But the kingdom of Bengal is greater than France, and the number of its inhabitants double, being computed at no less than fifteen million. Calcutta is a sea-port town in a corner of this vast country. Let us then suppose, that had it been the fortune of Bengal to have conquered England, and that the East Indians were plundering here, as Englishmen are plundering there, I believe it would not have given us much consolation, that three East Indian judges were to reside at the Land’s-End in Cornwall, in order to administer justice and prevent oppression throughout all the rest of the kingdom. If, then, it would be a vain attempt to extend the protection of English laws to the natives of Bengal, let us enquire how the government is constituted under which they now live. The constitution of the present government of Bengal is defined to be an union of the sovereign and merchant; and Mr. Vansittart informs us how these merchant-sovereigns exercise their supreme power. For he says, their rule of selling is to take as much as they please, and the rule by which they buy is to pay as little as they please.

From all that we read in tales or history, never did such a system exist as that where mercantile avarice was the only principle, and force the only means of carrying on a government. Comparisons of other tyrannies give no idea of English tyranny in Bengal. For it has been the province of tyrants to use their iron rods over the great and powerful; over men who became formidable for their virtues, or whose riches were provocatives to their avarice; the bulk of their people might live in quiet; the low and humble man, the labourer and the mechanic, were beneath the tyrant’s stroke. But in Bengal the rich and poor fare alike. They who have lands are dispossessed; if money, it is extorted; if the mechanic has a loom, his manufacture is cut out; if he has grain, it is carried off; if he is suspected of having any secret treasure, he is put to the torture to discover it. One is therefore at a loss for words to describe the sort of tyranny that is practised in Bengal. Monsters as tyrants are, they are but rare monsters; and very rare indeed, such as have been hardened against all fear of punishment, and all sense of shame. For the actions of monarchs are not for the comment of the present times alone: the fear,

therefore, of making their memories infamous, as well as their lives odious, together with the fear of resistance, have often served as fetters to a tyrant's will. But our countrymen in Bengal are free from all these apprehensions; they have no resistance to fear from a poor disarmed people, inured to slavery and broken to oppression. And so much in reverse are they of the fear of shame, that their ambition is spurred on by knowing that they are to secure honour, love, importance, dependents and friends, in proportion to the riches they bring home. The noble lord bids us not enquire into what these gentlemen have done in the East: such an enquiry, he says, would discover actions that cannot bear the light; that would bring dishonour on the English nation, and disgrace and misery on many worthy families in England. The noble lord bids us turn our eyes to what they are here. Here, he says, are they not charitable, are they not benevolent, are they not social, are they not hospitable? I believe it all. But will the noble lord to these amiable descriptions add one thing more? Will he paint, as correctly and as strongly as he is able, the springs and sources that supply the currents of all this charity, benevolence, hospitality, and splendour?

But it is not for these purposes alone that inordinate riches are sought after in the East. It was said of the Roman Verres, that he was "*pecuniæ cupidus quia in pecuniâ præsidium.*" Verres would have been contented (as Cicero informs us) with a quarter of what he got, for himself; but he thought it was necessary to add three quarters more; one to bribe the leading men of the senate; another to engage the greatest lawyers and most famous orators; and a third to be distributed among the common senators: such as we should call now-a-days the dumb votes of the House. Had Verres lived in our time, he might have employed his money still better. He might have added parliamentary influence to the influence of money. He might have bought boroughs, and got an interest within these walls, that might have controuled this very House of Commons, and perhaps the legislature itself. The world is in great expectation of the event of this question; and will judge by it how far such influence can or does operate at this hour.

But, it may be asked, what right has the House of Commons to enquire into, and to judge of, property either acquired

or possessed in the East Indies? Most cordially do I wish, Sir, that the first step of this business had been to declare the right. I have no scruple to avow my poor opinion where that right lies. 'Tis in the crown; and the right to controul it in the people. But whether the crown assumes itself, or delegates to others, the exercise of its rights, I hold it as the first principle of this constitution, that there can be no sovereign power whatever, the execution of which is not amenable to the representatives of the people. On this ground I claim the right of an English member of parliament to enquire into all public transactions:—where there is public merit, to give reward and honour; where delinquency, to detect, to censure, and to punish.

It is true, our enquiries have still left a wide field of events undiscovered. The reports on your table, voluminous as they are, if I may use the words of our great poet, give

No light—but rather darkness visible
Serves only to discover sights of woe.

How we came by this territory may God forgive! But believing there is a God above us, I believe also, that acquisitions made by shedding the blood of innocent princes, and by wringing from an innocent people their substance, can never prosper.

It is an aggravation of the miseries of these injured people that they had long been governed by a most excellent prince, Ali Verdi Cawn, who was succeeded by Surajah Dowlah. This ill-fated prince had reigned but a short time when he was murdered by Meer Jaffier, his relation, his subject, and his friend. This murderer was placed by lord Clive upon the throne: Surajah Dowlah is indeed reported to have been a very wicked, and a very cruel prince: but how he deserved that character does not appear in fact. He was very young, not 20 years old when he was put to death—and the first provocation to his enmity was given by the English. It is true, that when he took Calcutta a very lamentable event happened, I mean the story of the Black Hole; but that catastrophe can never be attributed to the intention, for it was without the knowledge of the prince. I remember a similar accident happening in St. Martin's round-house; but I should appear very ridiculous, were I, on that account, to attribute any guilt or imputation of cruelty to the memory of the late king, in whose

reign it happened. A peace was however agreed upon with Surajah Dowlah; and the persons who went as ambassadors to confirm that peace, formed the conspiracy, by which he was deprived of his kingdom and his life.

Another circumstance in this history is lately come to our knowledge. For, great and glorious as the acquisition of Bengal is said to be (a mill-stone round the neck of this country, as I think it), we are told that the select committee would rather have abandoned all its advantages, than have taken them without securing great sums of money for themselves. For the noble lord has informed us, that whilst the conspiracy was in agitation, there were stipulations with Meer Jaffier to pay sums of money to the servants of the Company individually; and the cause why those stipulations were made, was, because the members of the select committee declared they would not suffer the revolution to take place at all, unless they themselves were to be considered in the first instance.

It appears also upon the report, that lord Clive, over and above what he received as commander in chief, and over and above what he received as a member of the select committee, received also 230,000*l.* to his private share, unknown to the rest who stood in the same degree of claim with him, besides his lordship's jag-hire of 30,000*l.* a year.

Whether these sums of money were justly or unjustly taken, and whether the actors in this revolution had a right to use their public trusts for their particular benefit, is the first object of the enquiry. It is not the cause of one man only, but of millions, that lies before us: for if the controul of the English laws cannot extend to the East Indies, I cannot conceive that there is any method under heaven to prevent rapine, extortion, and every possible species of oppression there, unless this House determines that the spoils of that unhappy country shall not be enjoyed without enquiry here.

No man wishes more than I do to avoid making examples, if any thing but examples can be thought effectual. But the facts are now before us; and if we give our sanction to what is past, we give at the same time our sanction and our encouragement to all that avarice can still dictate, and to all that force can still inflict on the wretched inhabitants of Bengal.

Mr. Solicitor General *Wedderburn*:

Sir; as I have not troubled the House at all upon this business, I now desire its indulgence to give my sentiments upon East India affairs in general; which I shall do with the greatest readiness, as the general deduction made by the hon. member behind me, and the motions which he has in consequence made, do very particularly lead to what I have to advise on this subject. The select committee has sat upon this business long, and with great attention, and the hon. gentleman now introduces what he has to move upon it with all the solemnity imaginable; with so much solemnity, that the House, I believe, expected a very different catalogue of enormities, and a very different system proposed for the future.

We now see, once more, the good of such committees; the secret committee—(here being put right by the members near him, saying it was the Select Committee, he went on)—I beg pardon—the secret committee of the select committee, (I thought there must be something secret in it, by the magnitude of their discoveries) have in their prosecution of this affair, now brought it to a general issue, and all turns up a narrow, contracted, invidious attention to the conduct of individuals, instead of an open, liberal, and manly endeavour to bring forward such regulations for the future, as should prevent evils; I utterly disapprove of this conduct—and I have disapproved of it through the whole course of the business.

The hon. gentleman has entered into a long recapitulation of events which happened sixteen years ago, and from them he deduces two matters of charge; those I desire leave to examine; and the one is the dethroning and putting to death Surajah Dowlah, by means of a fictitious treaty; and the other is a general officer's name being fixed to an order of assassination.

Upon the subject of the revolution, I shall observe, that it is a most narrow and illiberal idea to suppose, that great and striking events, revolutions, wars, conquests and so forth, are to be carried through upon the direct and absolute principles of school philosophy and morality: such a supposition would be idle—would be useless. I will venture to assert, that a revolution of such consequence never was so conducted, nor ever will be. Throughout the detail which the hon.

gentleman has given of the transaction, I am astonished that we should have heard not a word of the character of Surajah Dowlah; not a syllable of the Black Hole affair; not a word of that vengeance, and even justice, which the most cruel, black, and horrid piece of tyranny which stains the annals of human nature, must have produced. Is this candid? Are these the principles to guide our enquiry, and to direct our punishments? I should be ashamed to be a witness to such proceedings. The real fact is this,—a monster of tyranny, who is an enemy, is to be dethroned;—he is dethroned by a conquering army, and put to death: this transaction, with a series of victory and success, are so rapid, that every moment was action—every instant filled with great events. The hon. gentleman tells us, that this was the origin of the oppressions, and of the succeeding revolutions. Who doubts it? This was the acquisition from which originated the great empire of the India Company; these were the victories that gave to that Company the splendid power of rewarding: had it not been for that revolution, those countries would never have been gained, which have been the object of the crimes complained of. What, therefore, does this hon. member prove by this? Or what useful fact is grounded upon it?

The hon. gentleman has declaimed much on the stain upon the British name, from the transactions in that revolution: I am of a very different opinion; when our feuds and animosities are forgotten; when our little envies and jealousies of large fortunes are, as they ought to be, buried in oblivion—the recording pen of a candid historian will relate these transactions as they were; and he will not fail to hold forth for the admiration of posterity, that in a revolution which acquired to the Company a dominion larger, wealthier, and more populous than ever Athens possessed—or than Rome itself, when she had conquered the Italian states; larger than France, and in revenues superior to most of the powers of Europe; that in the career of such conquests—of such great events—so few actions are to be discovered by the most inquisitive examination, (and a more prying one never was known) so few that reflect dishonour on individuals—none that tarnish the British name.

The two instances before you are all that are to be found in that pile of reports on your table;—a great revolution, and a vast conquest were made—not in every

circumstance upon the principles of strict morality. Very wonderful indeed! Let these persecutors of great and eminent name tell me of a revolution that was ever brought about with less attendant evil: name it. I defy the whole range of history to shew one of equal importance, in which the actors have so little to answer for. As to the forgery of admiral Watson's name, it would be needless to analyse it, because the noble lord has declared that had it been necessary, he actually would have done it—and certainly done right in politics, to take that or any other means to destroy in an enemy so great a tyrant. As to the other action of general Casland's name standing to an order of assassination, he solemnly declared that he apprehended the whole was a feint of the nabob to discover the sentiments of the army; and protested, that had he known the use which was made of it, he would not have done it for a thousand worlds; and in this he appeals to the testimony of the whole army and navy, and to every officer in the civil department.

Now, Sir, what are you doing, because in such a revolution as history can scarcely parallel, some large fortunes have been suddenly made, you are to determine them to be illegal; and talk of the restitution of money acquired sixteen years ago. For shame! What, is this to be the national gratitude for actions which have been the admiration of the whole world—the pride of Britain—the envy of Europe; upon this slender evidence—upon such odious insinuations—(turning to Sir W. Meredith) upon such contemptible motives are we to raise an envious hand against those laurels which flourish on the brows of men who have done so much? To whom does the Company owe this vast empire? To the bravery, conduct, and unparalleled activity of men whom you would now plunder in your turn. The hon. gentleman asks where such oppressions and tyranny are to be found as we have practised in Bengal? I will tell him; in the democratical tyranny of an Athenian mob, envious of every great and noble name, taking off one for his wealth, banishing another for his family, and a third for his fame. It is this detestable spirit which occasioned real tyranny, and we are now following the example. Have we a greater statesman or general than John, duke of Marlborough? but will any one assert that his great wealth was all acquired upon the direct line of morality? With as much rea-

son might you tax his representatives to refund his ill-acquired possessions.

But, Sir, the present motions are nugatory and ridiculous. The first part is, "that all acquisitions made under the influence of a military force, or by treaty with foreign princes, do of right belong to the state." To what time does this go? To what period? At what place? and in what quarter of the world? It goes to the acquisitions made at the Manillas, at the Havannah: how indefinite! And then "belong to the state!" What is the state? The hon. gentleman says that he does not decide what the state is; he leaves it for future discussion: but, Sir, what does this mean? It is impossible you should vote it; because it decides the right of the crown to the territorial possessions, which you have already put off for six years, if you say the state; or if you say the Company is the state. [This he illustrated by a humourous instance from the Jesuits, Jansenists, and Molinists, which sat the House in a laugh.] But, Sir, this motion gives to the state acquisitions, which beyond all doubt do of right belong to the individual; for it makes no distinction, the words "under the influence" is so unlimited.

Then, Sir, the next resolution says, that "acquisitions so made are illegal." This means nothing more, than that the possession of another man's property is illegal. Did we want a committee to tell us this? If one man has the property belonging to another, it is illegal; and that other person should apply not to parliament, but to the courts. We are further told of retribution of these possessions, which certainly ought to be to the persons injured, and not the state: but, Sir, the whole is a hodge-podge of contradiction and confusion, and too undefined and unlimited to be possible to pass this House; it reverses your former resolutions; it is founded on envy, and illiberal principles; it is narrow, pointed at individuals; and neglects future reformation, which ought to be the only object; and above all, there is an indecision, and want of evidence in your reports that must render every thing you do arbitrary and illegal.

Mr. *Dyson* next spoke with great good sense; he touched upon some parts of lord Clive's vindication upon a former occasion with delicacy, yet with much satire: he recommended to the House the perusal of *Frasier's History of Nadir Shaw*, whose moderation seemed, he said, very similar

[VOL. XVII.]

to that of lord Clive's; for Nadir, when at Delhi, only seized upon the treasury, and let the inhabitants remain tax free. He concluded by saying, that he thought the terms of the hon. mover might be more technically worded; but that, sooner than lose sight of the object at which the resolutions aimed, he would give his vote for receiving them in the very terms they were couched.

Lord Clive arose upon this; but Mr. Ongley getting up at the same time, there was a confusion in the House before it was settled who should speak first. The Speaker being appealed to, he said Mr. Ongley was up first; but as the noble lord was in so peculiar a situation, he certainly was to be indulged.

Mr. *Ongley* said the noble lord was a long speech-maker, and perhaps the House might have another speech of two hours and twenty minutes.

Lord *Clive*. Sir, I shall trouble the House not five minutes. If the record of my services at the India house—if the defence I have twice made in this House—and if the approbation I have already met with, is not an answer to this attack, I most certainly can make none. But, Sir, let me answer to one circumstance, the twenty lacks of rupees to the select committee. I must say that I always disapproved of that business, and my letters of that time are in being to shew it. But, Sir, the assertion that we divided it in the manner stated by the hon. gentleman, is an absolute falsehood, as can be proved clearly enough. Another gentleman (sir W. Meredith), asserted that Surajah Dowlah, after the Black-Hole affair, received and caressed the remainder that escaped with life. Sir, so far is this from being true, that he demanded money from them, loaded them with irons, and sent them away.

Mr. *Cornwall* said, that the question before them seemed to be, whether any person, invested with the public authority of the state, had a right, under that authority, to acquire emoluments to himself? This he so clearly conceived to be contrary to every principle of policy and good government, that he should ever maintain the negative.

Lord *North* was also of this opinion, and coincided with Mr. *Dyson*, that, if the resolutions could not be couched in more technical terms, he would, as a member of parliament, give his vote for them as they were.

[S K]

Mr. *Vane* said, that every thing which passed, served to convince him, that wealth, by whatever means procured, was the object the Company's servants aimed at acquiring. To obtain this he, for his part, believed they would set up and depose ten nabobs in an hour.

Mr. *Ongley* spoke to the same effect. Lord *G. Germain* spoke for the resolutions. Col. *Barré*, with great humour, entered into the history of presents. When taken, he said, without consent, they were plunder; when taken with consent they were gifts, and when taken by connivance, they became inland trade. The colonel told a facetious story: he said, that there was a governor of Gibraltar, who, together with his secretary, knew how to accept presents; that a body of Jews came, as was customary, to make their annual donations; but, bringing only 1,000 shekins, the governor declared, that the Jews should not have audience, as they were sprung from ancestors who crucified our Lord and Saviour Jesus Christ. The Jews went back disconsolate, and brought 2,000 shekins: they were admitted, and the governor said, "Poor men, they had no hand in the crucifixion!" The colonel made a home attack upon lord *North*; he said, that the resolutions should have been moved for by the minister; but he wondered not at his being reluctant to make examples. The precedent was a bad one, and might be hereafter quoted against his lordship. He urged, however, the necessity of an example, without which all the flimsy regulations would prove ineffectual. He called upon the minister to know when the business glanced at in the resolutions was to be brought on; he conjured him not to drop or postpone it by unnecessary delays. If, says he, it is delayed, I will tell you what will be the consequence: after the expiration of this parliament, numbers of the gentlemen, who have enriched themselves by presents, will purchase seats in the House: there will be no voting for a land-tax, a mottut will be established in its stead. You will have no occasion for calling together your English troops: you will carry all before you with an army of sepoys.

Lord *North* said, he knew no right any gentleman had to call upon him as minister. He sat in that House as a member of parliament, in which light only, during the course of the East-India business, he desired to be considered. He said he would answer the hon. gentleman any

questions in his power. [Here col. *Barré* interrupting him, said 'only the last,' meaning that relative to the day when the business alluded to in the resolutions should come on.] Lord *North* replied, I will even answer the gentleman this last question. I will say the business shall come on as soon as possible, and an example shall be made when justice requires it. I sit here as a judge, and I will judge as I hope to be judged: it is most earnestly my wish that every gentleman in this House should do the same. If I have the honour of bearing an office under the crown, it follows not that I should prostitute my principles. I never have, I never will so act myself: I never have, I never will use any art, any undue influence, to induce others so to act.

Mr. Attorney General *Thurlow*:

Sir; I cannot accede to the principles laid down with so much ingenuity by my hon. and learned friend (the Solicitor General.) The great stress that has been laid on the necessity of actions passing in revolutions, which are not amenable to the strict line of morality, is very true in general, but not applicable to the present case. I do admit, Sir, that the motions before us might have been so worded as to have escaped some of the objections which have been thrown out against them: but, Sir, let us be enlarged, and liberal in our way of thinking; let us look rather at the spirit of the motion—at the general design of it, more than technical inaccuracies. For, Sir, if we reject these resolutions upon the foundation of the reasons we have heard, what shall we do but absolutely reject the means of laying down effectually those regulations for the future which are admitted to be so necessary? How can we better begin that work than by resolving that the acquisitions here described are illegal? And how unjust, nugatory, and ridiculous would it be to come to such a determination, without taking a retrospect view, and enforcing future regulations by present vigour, by present justice. Revolutions are not brought about without some ill actions, and sudden fortunes—we admit it, and certainly the honour and justice of this House will never carry these resolutions of retribution which is to follow these revolutions into execution against men who in both or either of those lines have done no more than what might be generally expected, from the situation and state of af-

fairs: consequently, no man whose actions have been tolerably well founded need have any thing to fear, and as to those whose actions have not been so well founded, surely no member of this House will rise in their defence.

The evils complained of are in a line different from what my hon. and learned friend has adverted to. I do admit, that the heat and hurry of conquest—in the midst of rapid actions—in the moment of revolution—that these are not the times that should be examined too critically by the rules of school philosophy, and the morality of the closet: but, Sir, the evils are of another complexion; cool, deliberate transactions, treaties, negociations, wars or no wars—the event the same in all—one general scene of rapine and plunder: nabobs dethroned—nabobs elected—treaties made with these children of power—these ephemera of a moment—not for the advantage of the Company, but for private profit. Did John duke of Marlborough make treaties with foreign powers, stipulating that himself, prince Eugene, and the Grand Pensionary, should be paid so and so? To what purpose produce cases, if they are not cases in point?

Sir, so far from the evils having arisen only from the heat of revolutions, the oppressions under which Bengal has suffered have been as severe in time of peace as in that of war. Can this be right? And if wrong, why not enquire into it? And why enquire into it, if, when your enquiry is finished, it is to produce nothing? No mode of conduct can be so weak as that which only points out crimes, but takes no measure to punish them.

Sir, I am much surprized that the resolutions before us can meet with any opposition; they declare nothing that can be offensive upon any moderate or legal principles: for can any man doubt, but that acquisitions made by arms, or treaty, by individuals, are illegal? The soldier is to receive his pay, and the rewards which his employers confer upon him; he is not, by the influence of his power, to seize wealth to himself; nor is the statesman to think of his own interest in his treaties. How can gentlemen hesitate to give their assent to such plain and self-evident propositions? And if, contrary to such plain principles, individuals have outrageously offended, who can doubt of the necessity of passing resolutions which lead to retribution? And who can therefore suppose,

that all who think thus moderately and coolly must be envious of the great fortunes so quickly made?

We have been told, that never revolution, never conquest, has been made with so few bad actions, or so few ill consequences. I cannot admit this, if taken in the only light we ought to view it in; for I am of opinion no country ever conquered, felt more heavily the weight of conquest. And let me ask any man, to what, but the rapacity of the Company's servants, is it owing, that Bengal, under its own government so flourishing, should, under ours, be brought to the brink of ruin? Let gentlemen look to this great contrast;—let them consider this, and reflect within themselves, whether it is not highly necessary that something retrospective should be done? When we are told of the depopulation of that country from plague, pestilence, and famine, and owing to those oppressions complained of; when men have gone over, and without the merit of great actions, or even moderate abilities, have come quickly home loaded with the spoils of that miserable country; when by such practices the very being and possession of those territories have been endangered, shall we be told, that such events are the necessary consequences of revolutions and wars, and that the actors ought to be held harmless? I am no enemy to particulars; I am perfectly free from envy at their great fortunes; but I am a friend to regulations in future; and therefore, to make them effectual, I am for the resolutions before us.

General *Burgoyne*, in answer to a part of the Solicitor General's speech, which related to the caution necessary to be observed by those who cast the first stone, said, that he defied the malice of the insinuation; that if his private life was submitted to the severest scrutiny, it would be found full of follies, inconsistencies, and absurdities; but that, as to any criminality which could affect the honour of a gentleman, his heart told him his character was free from such a taint.

The two first Resolutions passed without a division.

The *Solicitor General* was desirous of postponing the third Resolution. He said it was resolving that to be fact, which every member in the House could not know to be such.

The *Attorney General* asked the House, whether any member could lay his hand upon his heart, and seriously say he

doubted the truth of the proposition, "that very great sums of money and other valuable property had been acquired from princes in India."

This Resolution being put, was also carried in the affirmative.

Then a motion was made, That the further consideration of the said Reports be adjourned till this day se'ennight; to which, an amendment was proposed to be made, by leaving out the words "this day se'ennight," and inserting "upon Friday next" instead thereof. And the question being put, that the words "this day se'ennight" stand part of the question; the House divided. The Yeas went forth.

Tellers.

YEAS	{ General Burgoyne -	} None*
	{ Mr. Cavendish - -	
NOES	{ Mr. John Buller, jun. }	} 148
	{ Mr. Whitworth - - }	

So it passed in the negative. And the question being put, That the words "Friday next," be inserted instead thereof; it was resolved in the affirmative.†

May 19. The order of the day being read for the House to take into further consideration the reports of the select and secret committees appointed to enquire into the Affairs of the East India Company,

* "It has sometimes happened, that a division has been demanded, and it has been found, that there is but one member on one side of the question, and consequently not enough to appoint two Tellers. In this case the division cannot go on, but the Speaker declares on the other side. If there are two Tellers, the division must go on, and be reported, though on one side the return of the members should be none." Hatsell.

† Mr. Gibbon to Mr. Holroyd, Boodles, May 11, 1773. "The House of Commons sat late last night. Burgoyne made some spirited motions: 'That the territorial acquisitions in India belonged to the state' (that was the word); 'that grants to the servants of the Company (such as jaghires) were illegal; and that there would be no true repentance without restitution.' Wedderburn defended the nabobs with great eloquence, but little argument. The motions were carried without a division; and the hounds go out again next Friday. They are in high spirits; but the more sagacious ones have no idea they shall kill. Lord North spoke for the enquiry, but faintly and reluctantly." Gibbon's Miscellaneous Works, vol. 1, p. 469.

General Burgoyne opened the business, by entering into a minute detail of the most material particulars contained in the reports of the select committee: he touched upon the revolution and deposition of Surajah Dowlah; he went accurately into the transaction relative to the betle nut, and other monopolies; he enlarged upon the evils occasioned by those monopolies, and very minutely stated the immense sums the Company's servants had received by presents, and extorted by taxations. The general further stated the condition in which the Indian princes were, when they made such presents to the Company's servants. He said, that in his estimation, a present implied a free, a voluntary gift, offered out of gratitude as a compensation for services received; but the emoluments the Company's servants had reaped, did not by any means quadrate with this idea. The princes of Asia were first conquered, and, when reduced to a state of subjection, they were given to understand, that nothing but large donations could satisfy the desires of their avaricious conquerors, whose rapacity always exceeded their success, and whose mercy it was in vain to plead for, unless the suitor prefaced his solicitation by several lacks of rupees. In short, the general contended, that the presents made by the several princes of the country, were not free-will offerings: not eleemosinary gifts, but distributed as so many purchases of favour, and always understood to be received as such. To call them presents therefore, was to call them by an improper term; for considering the condition of the parties at the time they were made, they could be deemed little else than bribes; but allowing them to be presents even in the most favourable sense of the word, as they were made under the influence of a military force, or by the means of certain treaties with foreign princes, the House had determined upon their illegality; and he was so well convinced of the propriety of that determination, that he proposed to regulate his motions accordingly. The general, in the course of his speech, pointed more particularly at lord Clive, who, as he said, it appeared by the report, illegally received most enormous sums in presents: the general therefore concluded by saying, that he intended to propose a Resolution to the following purport: "That the right hon. Robert lord Clive, baron of Plassey, in the kingdom of Ireland, in consequence of the powers vested in him

in India, had illegally acquired the sum of 234,000*l.* to the dishonour and detriment of the state."

Sir *W. Meredith* spoke next, and agreed in every tittle with the hon. general; he concluded by saying, that he had hitherto and should continue to second and support, against any power under heaven, any mode of proceeding or purport of resolution which he could justify in his conscience, as having national justice for its aim, and which his honour would applaud as proceeding from principles of rectitude.

Mr. Solicitor General *Wedderburn* next rose, and spoke at considerable length in favour of lord Clive. With respect to presents he argued, that there were some, indeed many situations, wherein the receipt of presents was justifiable upon every principle of disinterested integrity. He asserted, that they were received under circumstances that rendered a receipt of them perfectly justifiable. He largely expatiated upon the obligations the nation owed to lord Clive: he said, that for parliament to accuse a man of any species of delinquency upon the report made by a committee, was to accuse him without competent evidence. He urged many arguments in favour of this position, and particularly referred to the grounds upon which the select and secret committees were instituted: they were, he said, to examine and enquire into the state of the East India Company's affairs; but behold they had stumbled upon certain delinquencies committed by certain supposed delinquents, whom they were now inviously proposing to have punished.

Sir *Richard Sutton* said, that he had been appointed one of the committee, that it was true he amongst the rest had put home questions to the gentlemen examined, but that for his part he did it with a design of acquiring a more accurate insight into the Company's affairs, but never dreamt that the evidence then given would be hereafter produced in proof of any man's criminality; a proceeding which he by no means approved. He concluded by doubting the competency of the evidence; and declared that the latter part of the Report of the select committee was not true.

Mr. *Rigby* spoke with the warmth of a man of feeling, and Mr. *Ongley* with the warmth of a man of honesty, against the alleged delinquents. Mr. *Cornwall* strenuously contended for the competency of the evidence reported by the select com-

mittee. Mr. *Mackworth*, Mr. *Gray*, Mr. *Charles Fox*, and Mr. *Jenkinson*, declaimed with vehemence. The debate turning upon a point of order, Mr. *Dyson* laboured hard to clear up the doubts the House had entertained respecting the regularity of admitting the reports from their own members in evidence against a party accused. Mr. *Welbore Ellis* spoke to order.

Lord *Clive* rose and said:

Sir; after rendering my country the services which I think I may, without any degree of vanity, claim the merit of; and after having nearly exhausted a life full of employment for the public welfare, and for the particular and advantageous emolument of the East India Company, I little thought transactions of this kind would have agitated the minds of my countrymen in such proceedings as these; tending to deprive me not only of my property, and the fortune which I have fairly acquired, but of that which I hold more dear to me—my honour and my reputation. The House will not think me, I hope, fraught with any degree of vanity when I repeat again that I have done services to my country.

I must now beg leave to say a few words relative to the presents which I am charged with receiving unwarrantably. I must beg leave to observe to the House, that presents were allowed and received from the earliest time of the direction. They have continued to be received uninterruptedly for the space of 150 years; and men, Sir, who have sat in the direction themselves, have at several times received presents. This the direction must know; but I am firmly of opinion, that in honourable cases, presents are not improper to be received; but when for dishonourable purposes, then, Sir, I hold them to be highly improper. In the early part of my life, my labours were without emolument or laurels, and I hope the House cannot think but that I ought to be rewarded for my services to my country in the latter part of it. When I was employed by the Company, their affairs abroad were in a condition much to be lamented. Misfortunes attended them in every part of their settlements, and the nabobs looked with a jealous eye upon the small privileges and possessions they then enjoyed; and, though small, in danger every day of being wrested from them. Fear and weakness of power sought for protection from the dangers that surrounded them. In

this critical situation I was called forth, and it pleased God to make me the instrument of their delivery. In the various battles and attacks in which I was employed, I had the good fortune to succeed; nor were such schemes or undertakings entered upon without the previous provocation of the country powers. The treachery of Surajah Dowlah was for ever in our eye, and his perfidy was never at rest; nor did we attack Chandernagore till the treaty on his behalf was first violated.

After these conquests, Sir, and acquisitions gained for the Company, I returned home. They approved in the highest degree of what I had done; and, as a token of their approbation, they presented me with a rich sword set with diamonds. This, certainly, Sir, was no mark of their opinion that I had either violated treaties, or disobeyed their orders. Nor did their commendation and good opinion of my services terminate here. As soon as troubles broke out in that country, and when the news of the terrible disaster of the taking of Calcutta from us arrived to the ear of the Company, they immediately sent to me, and requested that I would go once more to India, to protect and secure their possessions;—that my presence alone would effect it; and they should rest secured, through the good opinion they had of me, that success would accompany me, and that I should be the means of putting their affairs again in a prosperous situation. I did not hesitate a moment to accept the offer. I went abroad, resolving not to benefit myself one single shilling at my return; and I strictly and religiously adhered to it. When I arrived there, I subdued Angria, a very powerful prince. I re-took Calcutta with an inconsiderable army. Surajah Dowlah had at all times betrayed a disposition to break the treaty; and when an army was sent under the command of M. Duprée, which might have proved fatal to us, I do not hesitate to say, that we bribed the general of that army, who immediately wrote to the nabob to let him know the English were invincible; and, upon a second request from the nabob to M. Duprée, that he would march with his army, and destroy the English, his answer was couched in the same terms. He said, that he always found the English invincible, and it would have been the height of imprudence to hazard an attack. By such means, and by this stratagem, we

succeeded. We soon discovered, that the nabob Surajah Dowlah was so turbulent and restless, that he only waited for the departure of the fleet to exterminate the English. But, as treacherous men are too apt to have men of the same cast and disposition about them, the nabob was not wanting of such companions. Omichund, his confidential servant, as he thought, told his master of an agreement made between the English and M. Duprée to attack him, and received for that advice a sum of not less than four lacks of rupees. Finding this to be the man in whom the nabob entirely trusted, it soon became our object to consider him as a most material engine in the intended revolution. We therefore made such an agreement as was necessary for the purpose, and entered into a treaty with him to satisfy his demands. When all things were prepared, and the evening of the event was appointed, Omichund informed Mr. Watts, who was at the court of the nabob, that he insisted upon thirty lacks of rupees, and five per cent. upon all the treasure that should be found; that, unless that was immediately complied with, he would disclose the whole to the nabob; and that Mr. Watts, and the two other English gentlemen then at the court, should be cut off before the morning. Mr. Watts, immediately on this information, dispatched an express to me at the council. I did not hesitate to find out a stratagem to save the lives of these people, and secure success to the intended event. For this purpose we signed another treaty. The one was called the red, the other the white treaty. This treaty was signed by every one, except admiral Watson; and I should have considered myself sufficiently authorised to put his name to it, by the conversation I had with him. As to the person who signed admiral Watson's name to the treaty, whether he did it in his presence or not, I cannot say; but this I know, that he thought he had sufficient authority for so doing. This treaty was immediately sent to Omichund, who did not suspect the stratagem. The event took place, and success attended it; and the House, I am fully persuaded, will agree with me, that, when the very existence of the Company was at stake, and the lives of these people so precariously situated, and so certain of being destroyed, it was a matter of true policy and of justice to deceive so great a villain. I have in my hand, Sir, a letter signed by admiral

Watson, Messrs. Manningham, Watts, &c. which, I apprehend, will carry admiral Watson's thorough approbation of the proceedings of the revolution, and the means by which it was obtained. [His lordship then read the letter, which conveyed admiral Watson's full approbation.]

Now, Sir, great as my fortune is (and which bears no proportion to what I might have made), yet, to shew that I did not harass, or lay under contribution, those whom I have conquered for my own emolument, I can tell this House, that neither I nor any one in my army received a sixpence from the inhabitants of Muxadabad. My jaghire was not received till 1759, though it has been reported I received it at the revolution in 1757.

I must beg leave to mention another circumstance to this House; that, upon these troubles, the Dutch were encouraged by the nabob to enter the country with seven ships, and a vast army. I did not hesitate a moment to give them battle; and in twenty-four hours I destroyed every ship they had, and their whole army was either killed, wounded, or taken prisoners. At this time the Dutch had most of my money; and in this instance, I think, I shewed a zeal for the honour and interest of the Company superior to every other object even of my own concern. I must now beg leave to read in the House two letters from the court of directors to myself, containing their approbation of the revolution in Bengal. These letters, Sir, came not through the common channel of address to the governor and council, but were directed to myself. [His lordship then read the letters, which contained the most full and satisfactory approbation of what is termed in one of the letters, the late glorious and profitable revolution.]—These, Sir, are surely sufficient certificates of my behaviour, and of the proceedings of that revolution; and, whatever the House may think of them, will remain an everlasting approbation of my conduct from those persons who alone employed me, and whose servant I was. A late minister (lord Chatham) whose abilities have been an honour to his country, and whom this House will ever revere, will, I am sure, come to your bar, and not only tell you how highly he thought of my services at the time, but also what his opinion is now.

I am, however, sure, that I shall have

justice done me by the enquiry of those men who are likely to be appointed to go to India to regulate the affairs of that country. Then, Sir, may come from that part of the world, a full justification of my conduct. Here I must beg leave to read a part of my late speech.* [Here his lordship read a part of the letter and of his speech, made on the 30th of March 1772, stating the acquisitions he had obtained for the Company and the public.]—After these services, I thought at least I might have enjoyed my fortune uninterrupted, and unenvied by those not so rich as myself. [Here his lordship then read another letter from the Company, which contained in a stronger manner than any of the preceding ones, a full and ample commendation and approbation of all his proceedings: this letter was directed to his lordship, and dated the 4th of March 1767.]

Upon my arrival, Sir, in England, a second time, a committee of the directors waited upon me, to desire to know when I would receive the congratulations of the direction. I accordingly waited upon them at their court in Leadenhall-street, and the chairman, at a very full court, addressed me in the words contained in this letter (which his lordship read). These, Sir, were circumstances certainly that gave me a full satisfaction, and a ground to think that my conduct, in every instance, was approved of. After such certificates as these, Sir, am I to be brought here like a criminal, and the very best parts of my conduct construed into crimes against the state? Is this the reward that is now held out to persons who have performed such important services to their country? If it is, Sir, the future consequences that will attend the execution of any important trust, committed to the persons who have the care of it, will be fatal indeed; and I am sure the noble lord upon the Treasury bench, whose great humanity and abilities I revere, would never have consented to the Resolutions that passed the other night, if he had thought on the dreadful consequences that would attend them.

Sir, I cannot say that I either sit or rest easy when I find by the extensive Resolution proposed, that all I have in the world is to be confiscated, and that no one will henceforward take my security for a shilling. These, Sir, are dreadful apprehensions to

* See p. 328 of the present volume.

remain under, and I cannot look upon myself but as a bankrupt: nothing my own, and totally unable to give any security, while these Resolutions are pending. Such, Sir, is the situation I am in. I have not any thing left which I can call my own, except my paternal fortune, of 500*l.* per annum, and which has been in the family for ages past. But upon this I am content to live, and perhaps I shall find more real content of mind and happiness therein, than in the trembling affluence of an unsettled fortune.

But, Sir, I must make one more observation, that if the definition of the hon. gentleman (general Burgoyne) and of this House, is that the state, as expressed in these Resolutions, is, *quo ad hoc*, the Company, then, Sir, every farthing that I enjoy is granted to me. But to be called, after sixteen years have elapsed, to account for my conduct in this manner, and after an uninterrupted enjoyment of my property, to have been questioned and considered as obtaining it unwarrantably, is hard indeed; and a treatment I should not think the British senate capable of. But if it should be the case, I have a conscious innocence within me that tells me my conduct is irreproachable. '*Frangas non flectes.*' They may take from me what I have, they may, as they think, make me poor, but I will be happy. I mean not this as my defence, though I have done for the present. My defence will be made at that bar, and before I sit down, I have one request to make to the House, That when they come to decide upon my honour, they will not forget their own.

A motion being made, that the further consideration of the said Reports be adjourned till to-morrow, an amendment was proposed by leaving out "to-morrow," and inserting "Friday" instead thereof. And the question being put, that the word "to-morrow" stand part of the question; the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Seymour - - - }	81
	{ Mr. Lascelles - - - }	
NOES	{ Mr. Onslow - - - }	119
	{ Mr. Mackworth - - }	

So it passed in the negative. And the further consideration of the Reports was adjourned to Friday the 21st, and Mr. Beacher, Mr. Sumner, Mr. Manningham, Mr. M'Gwire, and captain Brereton were ordered to attend at the same time.

May 21. The House resumed the further consideration of the Reports relating to the Affairs of the East India Company.

General Burgoyne said:

Mr. Speaker; I must observe, that a principal part of the charge against the noble lord behind me turns upon the transactions of the Select Committee, and for making this charge good, it is absolutely necessary to call in and examine such persons whose situation gave them opportunities of knowing the truth, as plainly appeared by the reports of your committees: among these, Sir, Mr. Beacher is one, whose examination is in this light necessary, and who, I should therefore wish to be called in: the points upon which his examination should turn, is the conditions upon which the revolution in Bengal was effected.

Mr. Beacher, after a slight debate, was called in. Several questions were put to him, and after them the following, "When the revolution in Bengal was resolved to be a measure necessary to the welfare of the Company's affairs by the select committee, did the committee, after such resolution, declare that they would not agree to the measure, unless presents were made to them of 22 lacks of rupees, or thereabouts, in consequence of it?"

Mr. Solicitor General Wedderburn. That question, Mr. Speaker, would agree better with the constitution of the Inquisition, than with that of this House: it is impossible it should be put; because the answer may tend to establish a criminality not in the noble lord only, on whose account common sense is so much put to the rack, but likewise that of the witness himself: and this in general will be the case with examining witnesses so deeply concerned in the merit of the transactions which are at present judging. [Witness ordered to withdraw.]

Mr. Attorney General Thurlow. I cannot subscribe to the opinion laid down by my learned friend; for if we are not to examine the persons who from their situations can alone give us information; and if we are not to ask such questions as the case demands, to what purpose is any enquiry before us?

Mr. Solicitor General. The plain fact, and the practice of all the courts with which I have been conversant, is the best answer to that imaginary difficulty: why ask questions to prove guilt in the noble lord, which, if the answers do prove it,

must prove equal guilt in the witness? Why not ask the same questions of witnesses not in responsible offices, who might know these facts, but not be guilty of them.

Sir *George Savile*. I take this principally to be a question not concerning the eligibility of Mr. Beacher to be a witness at all, because we have begun his examination, and there would be much impropriety in then determining that his examination is of no value; but the point which alone demands attention is, whether he shall be asked questions, the answers to which must condemn himself. Now, this is so contrary to law, to reason, to common sense, and the practice of this House, that I am amazed it can be made a matter of debate. The question put to the witness was such a one as ought not to be put; it was such a one as he could not answer.

Mr. Beacher was examined three several times. Lord Clive's evidence before the Committee was read, upon which his lordship made a short speech; he concluded with these words, "Take my fortune, but save my honour," and then retired from the House.

General *Burgoyne* then made the following motion: "That it appears to this House, that Robert lord Clive, baron of Plassey, in the kingdom of Ireland, about the time of the deposing of Surajah Dowlah, nabob of Bengal, and the establishing of Meer Jaffier on the musnud, did, through the influence of the powers with which he was intrusted as a member of the select committee, and commander in chief of the British forces, obtain and possess himself of 2 lacks and 80,000 rupees as member of the select committee; a further sum of 2 lacks of rupees as commander in chief; and a further sum of 16 lacks of rupees, or more, under the denomination of private donation; which sums, amounting together to 20 lacks and 80,000 rupees, were of the value, in English money, of 234,000*l.*, and that in so doing the said Robert lord Clive abused the powers with which he was intrusted, to the evil example of the servants of the public."

General *Burgoyne* declared, that, if his resolution passed, he should propose one relative to the noble lord's jaghire.

Sir *W. Meredith* warmly seconded this resolution.

Mr. *Stanley* objected, that the said motion contained a complicated question; and moved, that it be divided into two
[VOL. XVII.]

questions, the first part ending with the words "English money of 234,000*l.*" This was agreed to by the House.

The question was then put, "That Robert lord Clive, baron of Plassey, in the kingdom of Ireland, about the time of the deposing of Surajah Dowlah, nabob of Bengal, and the establishing of Meer Jaffier on the musnud, did, through the influence of the powers with which he was intrusted, as a member of the select committee, and commander in chief of the British forces, obtain and possess himself of 2 lacks and 80,000 rupees as member of the select committee; a further sum of 2 lacks of rupees as commander in chief; and a further sum of 16 lacks of rupees, or more, under the denomination of private donation; which sums, amounting together to 20 lacks and 80,000 rupees, were of the value, in English money, of 234,000*l.*"

Mr. Rose Fuller proposed an amendment, by leaving out the words, "through the influence of the powers with which he was intrusted, as a member of the select committee, and commander in chief of the British forces." This amendment occasioned a long debate, which lasted till five in the morning, when the House divided. The Yeas went forth.

Tellers.

YEAS	{	General Burgoyne -	}	95
		Mr. Hopkins -		
NOES	{	Lord Lisburne -	}	155
		Mr. Byng -		

So it passed in the negative; and the main question being put was carried without a division.

General *Burgoyne* next moved, "That Robert lord Clive, did, in so doing, abuse the power with which he was intrusted, to the evil example of the servants of the public." Upon which, Mr. *Stanley* moved the previous question, which was negatived without a division. After which the original question was carried. Mr. *Solicitor General* then moved, "That Robert lord Clive did, at the same time, render great and meritorious services to this country," which passed in the affirmative.

Debate in the Commons on the Resolutions relative to the future participation and disposal of the Surplus Profits of the East India Company.] May 25. The House having resolved itself into a Committee of the whole House, to take into
[3 L]

further consideration the Affairs of the East India Company, Mr. Bacon in the chair, the Petition presented by the East India Company on the 3rd instant being read,

Lord North said :

Mr. Bacon ; the present situation of our enquiry into the affairs of the East India Company renders it necessary to take notice of those principles and arguments upon which the petition before us depends. I mean, Sir, to explain myself upon this matter in the most candid manner I am able ; and I do assure the advocates for the India Company, that in whatever stage of this business I shall be found, I shall on no occasion have any other idea than the advancement of the interests of the public and of the Company, mutually. It has been matter of debate in the court of directors, and the general court, whether to accept, or reject the loan of 1,400,000*l.* from government ; and we have now before us a petition complaining of the terms annexed to that loan : it turns upon restraining the dividend to 6 per cent. ; upon the division of the territorial revenue ; and upon the appropriation of the fourth, which is left to the Company. It is upon these points, Sir, that we are given to understand the Company will not accept the proffered loan of 1,400,000*l.* I am very sorry to find any opposition in the Company to terms which are so much in favour of the security and stability of their own credit ; however, Sir, I have two resolutions to move upon this occasion, on which I must observe, that I should be sorry to have them understood as the least in the stile of menace to the Company ; on the contrary, I have not the least resentment at any thing that has passed. It would be improper, Sir : and the reflections that have been made are unjust. The Resolutions are as follow : 1. " That the clear revenues and profits of the East India Company, after the current payments of interest, and other outgoings, charges, and expences, of the said Company, shall have been thereout allowed and deducted, ought, from time to time, to be applied, in the first place, to the discharge of such debts as, being due and payable at the time, shall be demanded by the respective creditors. 2. That, in the present situation of the East India Company, it will be highly expedient, that some provision be made by parliament, for more effectually securing the

application of such clear revenues and profits to the purpose aforesaid, and for thereby effecting the more speedy discharge of the debts of the said Company."

All I mean, Sir, in these resolutions, is, the security of the creditors and the proprietors ; for such reports have gone abroad, of the designs of the Company to put off the payment of their debts, as to render it a serious consideration : it has been said that they have been informed by their lawyers, that they can delay paying the Bank for a year and a half, by legal practices : I hope such will never be attempted to be put in execution ; but, Sir, the Company's course of payment must be very different ; the words of the resolution I have read, tie them down only to an observance of common justice and those rules and principles of payment which I believe were always observed by the Company when their affairs were in common order. As to the second resolution, it is merely an enforcement of the first.

Mr. Dempster. I must beg leave, Mr. Speaker, to offer one remark on a something which the noble lord let fall. That after the usual out-goings, &c. are paid, the Company is to pay her debts due, when demanded : does the noble lord understand by out-goings, the dividend—that is a reasonable and honest dividend on their capital ; for instance, 6 per cent. or does he mean that the payment of the debts is to precede such or any dividend ? And another circumstance upon which I wish the noble lord would satisfy us in the demand of government upon the Company, for repayment of the loan of 1,400,000*l.* in case it is accepted—is this creditor to be an importunate one, and to precede a reasonable dividend ?

Lord North. Certainly, Mr. Bacon, I do not mean in any case to exclude a just and reasonable dividend : for that, Sir, would be to act contrary to all the principles of commerce by companies ; all that is expressed or implied in the resolutions I have moved, is to keep the Company, in the present case, to those rules which I believe were always her guide in other cases ; and to prevent any hasty and unjust conduct towards her creditors, in order to escape her present difficulties, without accepting the loan from the public. As to the repayment of the loan itself preventing the dividend, the terms of the former resolutions, precisely explain it, for there a dividend of 6 per cent. is ex-

pressly allowed till the repayment of the 1,400,000*l.*

Mr. *Dempster*. If the noble lord's resolutions go no further, I have no doubt but they will be acceptable to the proprietors in general, as they express nothing more than what I am clear the Company mean to perform.

Governor *Johnstone*. Mr. Bacon, it is very evident from what the noble lord has said, that these resolutions which he has moved, are in consequence of the supposition drawn from the petition before us, that if the conditions annexed to the offer of the loan of 1,400,000*l.* are adhered to, the Company will not accept it; and this view of the matter renders it necessary for me to explain to the House the points wherein the difference lies, and which the Company thinks very hard upon them. Sir, the first article of difference is, that restraining them to a dividend of 6 per cent. whereas they think 8 per cent. would be perfectly reasonable, and absolutely fair to all parties, and to every interest.

The noble lord asserted, that his reasons for fixing it at 6 per cent. was the presumptive proof given by your committees, that that was as high as could be afforded; for that though 8 per cent. had been divided for many years, yet it never appeared that the commercial profits of the trade amounted to 8 per cent. In answer to this, Sir, I shall observe, that there are many reasons to suppose the actual dividend of 8 per cent. was a just as well as a nominal one, and such as the commercial profits of the Company would well allow; for let it be considered, that in that period in which the dividend was so stated by the secret committee, there were expences beyond the usual line, and such as there is not the least reason to suppose will come again.

For instance, Sir, there was the 400,000*l.* paid to government in the subscription of the 3,200,000*l.* lent to the public; there were the losses of Fort St. George, Fort St. David's, and two expensive wars, such as we are not to look to again, the loss of a complete investment of 300,000*l.* two sums alone amounting to 700,000*l.* besides the expences of wars, which I think might be reckoned, because they lead so strongly to the territorial acquisition which government now claims; and besides the sum of 200,000*l.* paid for the renewal of their charter, which I do not take in, as it may be said to come under

the article of contingent expences in future. It has been remarked, Sir, that during that period we run 800,000*l.* in debt; now here, Sir, I have made out 700,000*l.* of it besides the extras I mentioned before: surely from this account we may justly state the commercial profits at 8 per cent. But, Sir, why are we not to take into our view the superiority of our present state in India, to what it was in that period; a superiority so great, and affecting our trade so much, that there is not a shadow of probability of the commercial profits not being considerably longer; in such circumstances to reduce the dividend to no more than 6 per cent. the Company think very hard.

In the next place, Sir, they differ with the noble lord upon the division of the revenue of the territorial acquisitions; instead of the public taking three fourths, they think half would have been fully sufficient. Upon this point I am not strenuous, because I think the government had better take the three fourths, and then let the Company alone, than only take half, or even a quarter, and foist management upon them. The next point of difference is the application of the fourth remaining to the Company; upon this head the noble lord was so guarded—so cautious in his expressions—and so fortified in what he said the day when he moved those resolutions, that I know not whether the noble lord, as it has since been said, will insist upon that article; but if it is insisted on, the directors, the proprietors, myself, and, I believe, the whole world will equally condemn it as arbitrary, unjust, and breaking the absolute chartered rights of a free people: I think it the severest stroke that ever despotism offered to a free company.

The noble lord seems to have had bad information in certain points; and it is the misfortune of ministers, that those men who make it their business to be talebearers, are seldom men of integrity; for such will not undertake such an office. The noble lord seems to have had wrong intelligence of the conduct of general courts; I do declare that they have been, wherever I have been present, very decent and orderly; and never wanting in respect to the noble lord—ever speaking of his character in terms of respect, until the new Bill for regulating the Company was read to them—then, indeed, they were very indecent and disorderly, thinking some of the terms of it highly injurious to

their rights; and I shall observe for myself, that I think the appointment of a governor general, council, and judges in the crown, in the manner set forth in the Bill, is at one stroke annihilating the Company, and transferring the monopoly to the crown, equally unjust to the Company, and ruinous to the nation; the crown by this will gain such an increase of wealth and power as she never gained yet; and if the Bill passes, this acquisition will be found fatal to liberty.

I would say one word respecting the conduct of the direction; they have acted very wrong to be sure, and had they managed as they might, I do admit that the 400,000*l.* a year paid to government, and even more, might have been well paid, and in continuance; but, Sir, they were deceived by a noble lord who has been the object lately of much eulogium in this House; he wrote home that their affairs were fixed on such a foundation, that even hypocrisy could not introduce corruption—and advised them to send for the round sum of a million; the noble lord was deceived himself, for he could not possibly have any private interest in making such representations: but, Sir, the directors are somewhat to be excused in their conduct, when they acted in consequence of such representations.

As to the present state of the Company, I am clear they can extricate themselves without accepting the loan from parliament; they have creditors certainly, but not clamorous ones; the bill-holders will be induced to delay as they ought, considering their gains; and the Bank is conducted with so much justice and integrity, and meaning strongly to befriend the Company, as I judge from the conversations I have had with some of the directors, and particularly Mr. Paine, who I really believe is a man of as great honour and worth, as any I know,—that I think the Company has not much reason to fear from any undue demands—hasty ones—from the Bank. The Treasury indeed may be importunate—we admit that.

Lord North answered the governor pretty clearly in some parts of his speech, but in general lightly touching the more essential points.

The Resolutions were then agreed to.

Lord North's Speech on presenting the East India Company's Regulation Bill.] May 18. Lord North presented to the House, according to order, a Bill “for es-

tablishing certain Regulations, for the better Management of the Affairs of the East India Company, as well in India as in Europe.” On moving that it be read a first time,

Lord North said:

Sir; the interposition of parliament in the affairs of the East India Company, though it has occasioned something of a turn of proceedings in the general courts which I think unwarrantable, has met, Sir, with the approbation of all moderate, well-informed and considerate persons. I have had the honour of proposing a series of Resolutions drawn up with a view of regulating the Company's affairs in future: from these resolutions I have framed a Bill, which I now beg the permission of the House to bring in. Since these matters have been under consideration, the right and motives of parliament have been strangely questioned in the whole business, much of which I apprehend has been owing to the jobbers in the Alley. Restraining the dividends in different periods, as it prevents the fatal effects of gambling in India stock, so it must certainly meet with all possible opposition from a set of men whose greatest profits are in proportion to the fluctuation of the stocks; whereas this Bill is meant to prevent all fluctuation. The public has been much amused with projects for the Company's raising the sum of a million and a half, without accepting what they before applied for to government. Sir, this demands two considerations; first, relative to the possibility of the Company's fairly executing such a scheme—while they are daily submitting themselves to pay great interest for their actual debts to government, on default of payment of customs and excises; we may easily conceive that in any situation schemers and projectors will appear who can promise wonders upon paper, that are wild and impracticable. Can the Company suppose the legislature to be drawn aside from their important purpose by such idle imaginations? Next, Sir, I must suppose the case—If the Company does not find it expedient to borrow of government, can it possibly be supposed that therefore the interference of parliament in their affairs is to be dropped? Is this to be imagined? It is impossible, Sir, but the candid part of the Company must be sensible, and acknowledge, that the right, duty, and propriety of the state to interpose in this case is essentially ne-

cessary to the well-being, nay to the existence of the Company. It is upon these principles that I imagine the Bill I now bring in will in all its parts be approved; as every article in it is framed with a view to the placing the affairs of the Company on a solid, clear, and decisive establishment.

The Bill was read a first time.

Petitions of the City of London and of the East India Company against the East India Company's Regulation Bill.] May 28. Sir Watkin Lewes, one of the sheriffs of London, presented, at the bar, a Petition from the lord mayor, aldermen, and commons, of the city of London, in common council assembled. And the said petition was read: taking notice of the Bill for establishing certain regulations, for the better management of the affairs of the East India Company, as well in India as in Europe; and setting forth.

"That the petitioners are of opinion, that the said Bill is a direct and dangerous attack on the liberties of the people, and will, if passed into a law, prove of the most fatal consequences to the security of property in general, and particularly the franchises of every corporate body in this kingdom; and that the petitioners are the more alarmed by these proceedings, as the privileges the city of London enjoy stand on the same security as those of the East India Company; and that the Bill has been brought into the House with a degree of secrecy incompatible with the principles of the constitution in matters of such public concern: and therefore praying the House, that the said Bill may not pass into a law."

A Petition of the united company of merchants of England, trading to the East Indies, was also presented to the House, and read; taking notice of the Bill for establishing certain regulations, for the better management of the affairs of the East India Company, as well in India as in Europe; and setting forth,

"That the said Bill, if passed into a law, will destroy every privilege which the petitioners hold under the most sacred securities that subjects can depend upon in this country; and that the appointing of officers by parliament, or the crown, to be vested with the whole civil and military authority of the presidency of Bengal, and also the ordering, management, and government, of all the territorial acquisitions and revenues of the Company, in the kingdoms of Bengal, Bahar, and Orissa,

together with the other superintending powers over the settlements of Bombay and Madras, independent of any choice in the Company, or any real power of controul in the directors or general courts of the said Company, or power in the said Company of removing the said officers for misbehaviour, or filling up of vacancies in case of death or avoidance, is a measure so extraordinary (while the possessions are alleged to remain in the Company) that the petitioners beg leave to call the attention of parliament to this most alarming circumstance, before the House shall give a sanction to an act, which, under the colour of regulation, will annihilate at once the powers of the East India Company, and virtually transfer them to the crown; and that the said Bill is destructive of the essential rights and interests of the petitioners in many other respects; and is further defective as to many of the purposes for which it is declared to be framed; and that the petitioners look upon this Bill as tending to destroy the liberties of the subject, from an immense addition of power it must give to the influence of the crown; and that the petitioners have never been made acquainted with any charge of delinquency having been made against them in parliament, and if any such charge has been made, they have never been called upon to be heard against it; and that they cannot therefore suppose that any such delinquency on the part of the Company has been voted; which delinquency, however, is made the ground of this Bill: and therefore praying, that they may be heard, by themselves or counsel, against the said Bill; and that the same may not pass into a law."

Debates in the Commons on the East India Company's Regulation Bill.] The House then resolved itself into a Committee on the Bill for regulating the Affairs of the East India Company; and counsel were heard in behalf of the Company pursuant to the above Petition.

Mr. Mansfield spoke three quarters of an hour; Mr. Adair, also counsel for the Company, half an hour; when they were ordered to withdraw, and the debates commenced. Almost each sentence of the Bill afforded a topic for censure; clause by clause was disputed; and each disputant tried his ingenuity at filling up the blanks. Mr. Dowdeswell arraigned, in the severest terms, almost the whole of the Bill; he called it a medley of inconsis-

tencies, dictated by tyranny, yet bearing throughout each line the mark of ignorance.

At half past ten the committee had proceeded to the consideration of the qualification necessary to constitute a voter. Vehement debates were carried on upon this head, "Whether 500*l.* or 1,000*l.* stock should entitle a person to vote?" Mr. Rose Fuller proposed fixing it at 1,000*l.*, but he wished that a person holding three, six, or 10,000*l.* stock, should be entitled to one, two, or three votes, in proportion to the greatness of the quantity of the stock he possessed. This proposal was over-ruled.

At eleven the question was put, "that the qualification should be fixed at 1,000*l.* stock," when the committee divided, and there appeared for the question 179; against it 65.

June 2. The House went again into a Committee on the Bill. Lord North opened the business in a well-calculated speech; he concluded by declaring, that he had revolved in his mind every expedient he thought practicable to serve and to restore the Company to its once flourishing condition; and that he, from the dictates of his conscience, proposed the Bill, as the most likely method of obtaining every end the Company could expect from stability of council and rectitude of measures. He stated the objections which had been made to the Bill, both within and without doors, and attempted a refutation of each.

As it seemed the design of his lordship and the inclination of the House to consider the Bill clause by clause, the whole debate of the day turned upon that which related to the establishment of the governor and council, and after a seven hours altercation, in which a variety of amendments were alternately proposed and rejected, the question seemed reduced simply to this, "Whether the right of nominating the governor and council should be vested in the crown, or in the Company?" The debates upon this question became vehement, and about a quarter after eleven the Committee divided upon the clause concerning the nomination of the governor and council, when there appeared, For the clause, as investing the crown with the right of nomination, 161; For investing the Company with the right of filling up the future vacancies, 60; Majority on the side of the ministry, 101,

At twelve Mr. Dempster moved that the right of appointing judges, &c. should be vested in the Company and not in the crown, when the numbers were 103 Noes, 18 Ayes. At one the Committee adjourned.

June 3. The House again went into a Committee on the Bill. The first question they went upon was the salary of the Judges: 6,000*l.* was proposed for the Chief-Justice, and 5,000*l.* to each of the other three; but Mr. Dempster moved, that 8,000*l.* should be given to the Chief-Justice, and 6,000*l.* to each of the others; to which the House agreed.

After which the clause, preventing any person holding any civil or military office under the crown, from receiving or accepting any present or gift from any of the Indian princes, was taken under consideration. After the clause was gone through, lord Clive observed, that such restrictions would be productive of great inconveniences, particularly when any town was besieged; that instead of entering it by capitulation, the army would at all times wish to take it by storm, for the sake of the plunder. His lordship dwelt much upon the necessity there was for leaving a discretionary power in the governor and council, to allow presents to be received by commanders of armies, and other officers, at the siege or taking possession of a town. The Committee did not seem to approve of his lordship's advice.

General Conway supported his lordship's opinion; and Mr. Stanley also rose, and entered deeply into a debate upon the right of receiving presents. This engaged sir W. Meredith in the controversy, who supported his former motion against the noble lord, as the first and great example that ought to be made and brought forth to the censure of the House; that if he had succeeded in that, other gentlemen, nearly as culpable as the noble lord, were intended to be the objects of parliamentary enquiry; but the House having thought fit to let the great example escape, it would be needless to accuse others of less guilt, and who were led on by the force of that great example only.

The clause relating to the restraining persons not belonging to the Company, from carrying on any inland trade, was much debated, but agreed to.

The Committee then proceeded through the remainder of the clauses without further opposition, and agreed to report their

proceedings to the House, which was accordingly done, and the Bill ordered to be printed.

June 8. A Petition of lieut. general Robert Monckton was presented to the House, praying to be nominated by parliament to the military department of the superior council in India.

The following Petition was also presented:

“ To the Hon. the Commons of Great Britain in Parliament assembled.

“ The humble Petition of several proprietors of the East India Company possessed of 500*l.* or more, but less than 1,000*l.* of the capital stock of the said Company.

“ Sheweth,

“ That your petitioners, by the charter granted to the East-India Company by his late majesty king William, and since that time repeatedly recognized and confirmed by several acts of parliament, in consideration of many large sums of money lent and advanced by the said Company to the public, are legally possessed of a right of voting at any general court of the said Company, for the election of directors, the making of bye-laws, or in any other matter relating to the affairs or government of the said Company.

“ That notwithstanding those sacred securities, under which they purchased their respective shares in the stock of the said Company, your petitioners are astonished to find, that by a clause in the Bill now depending in parliament, for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe, they are to be deprived of this right, and of every degree of influence, in the management of so considerable a property, which is to be wholly transferred to such proprietors as are possessed of 1,000*l.* capital stock, or more, under a presumption, that the pernicious practice of splitting stock by collusive transfers, may be more effectually prevented by such a regulation.

“ That notwithstanding the false and groundless aspersions, which have been thrown out against so great a number of your petitioners, which they trust this honourable House will not make a ground of proceeding to affect their right, while unsupported by evidence, your petitioners who are *bona fide* proprietors in their own right, beg leave to represent,

“ That no persons can be more interest-

ed to prevent such illegal practices, whereby their endeavours for the good of the Company are liable to be defeated by the undue influence of a few wealthy proprietors.

“ That, with a view to this, the East India Company petitioned parliament in the year 1767, that the several proprietors entitled to vote should be obliged to hold this qualification, at least, six months before they should exercise that right; in consequence of which an act of parliament was made for that purpose.

“ That the Company, being still further desirous to effectuate the purposes of that Act, have, at a general court held on the — day of May last, directed an application to be made to parliament, for extending the time prescribed by the said Act of the seventh of his present Majesty from six to twelve months.

“ That your petitioners, willing that every remedy may be applied to this evil, are desirous, that all the other provisions of the said Bill now depending in parliament for preventing collusive transfers, except the encrease of the qualification of the voters, which cannot answer that purpose, should pass into a law; which provisions, together with the extension of the time to twelve months, must inevitably put a stop to that practice, which has already been, in a great degree, prevented by the operation of the said Act made in 1767.

“ That the proposed encrease of the qualification of the voters cannot in any degree contribute to the end desired, but will rather facilitate than discourage so pernicious a practice; since the splitting of stock being confined to those proprietors who hold large quantities, it will be both easier, and attended with less risk by death, bankruptcy, or discovery, to place their stock in the hands of half the number of persons, while their influence will thereby be encreased in a very great proportion.

“ That from thence it is evident, that the real effect of this clause will be the throwing the power of the Company into the hands of a few opulent men, while the only effectual balance to such an oligarchy by the exertion of independent proprietors of moderate fortunes, will be totally destroyed.

“ That supposing it should ever be the intention of the crown, or its ministers, to exert an undue influence in the management of the Company's affairs, it is evident

that intention may be much more easily effected in a smaller than in a more numerous body.

"That upon the whole, your petitioners conceive, that the alteration now proposed cannot be supported upon any principles of expediency, or any just arguments respecting the purpose for which it professed to be intended.

"Your petitioners therefore hope this honourable House will give them leave to be heard by themselves, in support of their own legal rights, against the said Bill, which without consent, compensation made, or charge of delinquency proved, deprives so great a number of proprietors of the franchises which they have purchased under the faith of parliament, and has not the excuse of public necessity, or even utility, to palliate so violent an act."

Two gentlemen were deputed to speak to the Petition, Mr. Gordon and Mr. Adair: the former delivered his objections to the clause in the Bill which fixes the right of qualification to 1,000*l*. They were ordered to withdraw, and the following motion was made, and question put: "That it does not appear to this House, that the proprietors of 500*l*. capital stock, in the united company of merchants of England trading to the East Indies, have been guilty of any delinquency in the exercise of their charter rights, according to the several acts of parliament made in that behalf." The previous question was put, whether that question should be put, and it passed in the negative. The above two gentlemen were again called in, and spoke for a considerable time. Afterwards the House proceeded to read over the several amendments; and when they came to that part of the Bill respecting the 500*l*. stockholders, a long debate arose, whether 1,000*l*. should be inserted instead thereof. The House divided, Ayes 123, Noes 43.

A second division was occasioned by Mr. Dempster's proposal, in the clause relative to the appointing of chief justice and judges, that they should be nominated, being barristers of not less than five years standing. Mr. Dempster further proposed adding, after the word 'barristers,' 'or members of the faculty of advocates in Scotland.' This drew up Mr. Whitworth, who thought it very hard that the Irish alone should be excluded; and just as the House were going to agree to Mr. Dempster's proposition, Mr. Whitworth moved, that the barristers of Ireland might also be included. Dr. Burrell also wished, that

the civil law doctors of England might not be excluded, but that they might be joined with the Scotch advocates in Mr. Dempster's question; the whole of which being to be put, lord Folkstone and Mr. Whitworth desired it might be divided, and the sense of the House taken separately upon each. Accordingly the first question was put upon the words England or Ireland, which passed in the affirmative without a division. The Speaker then put the other part of the question relative to the advocates of Scotland, together with Dr. Burrell's question of the civil law, which he had desired might be added to Mr. Dempster's motion; upon which the House divided, that those words stand part of the clause; Noes 193, Ayes 6.

After which the House went through the amendment, and made some immaterial alterations in the body of the Bill, one of which was by filling up the blank for the governor-general and council. Lord North got up and proposed Warren Hastings, esq. to be first governor-general, and lieutenant general John Clavering, Hon. Geo. Monson, Richard Barwell, esq. and Philip Francis, esq. as the four counsellors. Lord North recommended Mr. Hastings, as a person to whom nobody would object; he was at present in the first department in India. The blank was then filled up with his name, without any debate. Upon his lordship's proposing lieutenant general Clavering, Mr. T. Townshend rose, and said he should move the previous question upon that, and take the sense of the House; that he had no objections to general Clavering; that he was a man of a great and eminent character, and very fit for the employment; but he was much surprised not to hear his lordship make mention of a person who had that day presented a petition to the House, whose merit in every instance was equal to that of general Clavering, and whose services to his country this House had already returned him thanks twice for; that his merit stood deeply engraven on the page of the Journals; and that in the petition he had that day presented, his wounds that he had received in the cause of his country were bleeding afresh; that he had a title to be nominated in this Bill as one of the council for India, by having been once appointed by the directors, and approved of by his Majesty: that this surely was a possession of office, which might at least recommend him to this House, to consider and reward his services. He observed, that the noble

lord had thought it incumbent upon him to make an apology to the House for not nominating Mr. Rumbold, who was under the same predicament as general Monckton (having been formerly nominated by the directors), but had been totally silent as to general Monckton; that it was in a degree casting a censure upon the conduct of general Monckton by being silent upon such an occasion, especially when his petition lay upon the table to remind the noble lord of his application for such an appointment. Lord North got up, and said that the merits of general Monckton were very great; that he honoured and esteemed him as a man, and that he was deserving of every great character that could be given him; that the reason why he mentioned Mr. Rumbold was, because he had had some conversation with him some time ago; in which Mr. Rumbold had told him, that as Mr. Hastings was to be governor general, he could not think of accepting any other employ under that; and that he desired him to mention the same to the House if his lordship thought proper. He observed to the House, that he did not wilfully neglect the mention of an apology concerning general Monckton to the House, and that he ventured to say that there was another line of preferment that was in agitation for general Monckton, and made no manner of doubt but that his services would be soon amply and sufficiently rewarded; that the person that he had proposed, he would answer to the House, was unexceptionable in every part of his character; and as such he proposed him. After some altercation concerning the pretensions of these two generals, whose merit all in the House seemed to allow to be equally great, a division happened upon the previous question, whether general Clavering's name should fill up the blank, or give way in order to insert that of general Monckton; Ayes 115, Noes 60; so that the blank was filled up with the words lieutenant general John Clavering. The other blanks were filled up without debate with the names of the hon. George Monson, Richard Barwell, and Philip Francis, esqrs. Mr. Dempster intended to move an address to his Majesty, to shew some mark of his favour to general Monckton, but lord North assured him that he believed it was unnecessary; for that his Majesty had his services much at heart, and he made no manner of doubt of their being attended with a proper reward; that

[VOL. XVII.]

his deserts were much known and esteemed, and no opportunity would be neglected to promote general Monckton; and that he would be considered here as well as elsewhere.—The House then agreed with the Report of the Committee, and ordered the Bill to be engrossed.

June 10. The Bill was read a third time. Upon the question being put that it do pass,

Mr. *Dowdeswell* rose, and entered deeply into the different parts of it, explaining the principles upon which it was framed, and the objects to which it leads. He objected principally, that the governor and council were to be appointed by parliament and continue to obey the directions of the Company at home. He objected much to the directors being to be chosen for the term of four years, which was a kind of permanency that made them in a manner independent of the proprietors, who were their masters; that parliament had deprived 1,200 voters of their right, which amounted to an absolute disfranchisement. He also objected to the nomination of the officers of justice being left in the hands of the crown; for though it was true that the crown was the fountain of justice, yet in this instance the Company were so immediately concerned, that they might have as well had the power to nominate these officers of justice, to be approved of by the three chiefs in Westminster hall; and that he firmly believed that method would procure men fitter for the service, than those that were now to be appointed by the crown through the minister's recommendation. He agreed, that there were many clauses in the Bill that were very good ones; at the same time, there were also many of a very bad nature; that common fame, was the only ground on which this Bill was framed; that though it might be sufficient for an enquiry, yet it was not so for an accusation. He went through the various parts of the Bill, complaining greatly, that it was framed upon no ground of delinquency or necessity; that all it could pretend to have for its foundation, was policy and expediency.

The Hon. *John St. John** said:

Sir; I rise for the first time in this House, and I must beg the indulgence of it for a few minutes; but I cannot sit still

* Brother to viscount Bolingbroke.

when I hear such arguments advanced, founded, in my humble opinion, upon no principle at all. The several provisions, Sir, of this Bill have been deemed arbitrary and violent, and not founded upon delinquency; I, for my part, Sir, will lay delinquency totally out of the question, and think that policy alone is sufficient for the regulations in this Bill. I am sure that gentlemen who entertain ideas of arbitrary proceedings in this Bill, cannot have thoroughly read it, or understood the ground on which it is framed. Supposing that no delinquency had ever been, yet, Sir, it is the duty of this House to meliorate the charter, and I am certain that charges of delinquency may be collected from the Report upon the table, where it will be found, that the council and servants abroad have entered into contracts to disobey the orders of the directors. Surely, Sir, it is necessary to alter the powers, and grant the execution of them to others, where the good intent and meaning of charters have been frustrated, and made use of to the detriment of the public; but I hope, Sir, delinquency will not be considered as material, where policy and necessity demand a measure; and I hope this House will not be led aside to think the validity of chartered rights is to be held so sacred as not to be altered or amended when it is for the good of the public. There is a great distinction between chartered rights granted by parliament, and those rights originally and constitutionally derived: the one may be altered and changed by the same power that granted it, having in view the object of public reformation: the latter is more sacred, and from its constitutional and natural existence, is grounded on a right totally different. This charter never could have existed without the interference of parliament, and therefore ought to continue alterable and changeable under the controuling eye and wisdom of parliament. When this charter was granted, neither parliament nor the Company had the least idea of its being to be extended over such immense territory, more populous and extensive than the mother country itself.—He then repeated the several heads of complaint against the Bill; in every one of which he totally disagreed, as they did not appear to him to be replete with the inconveniencies attributed to them.

Mr. *Hans Stanley*, after answering Mr. Dowdeswell in many of the instances which he had alleged as prejudicial to

the Bill, contended strongly, that the Bill was not as had been represented by that hon. member. He read a letter which Mr. Dowdeswell had quoted from an extract, which contained an opinion of lord Chatham, in a letter to him when abroad, concerning the possessions in India, whether they were expressed to belong to the Company or to the state. As Mr. Dowdeswell had stated by that extract, that they belonged to the Company and not to the state, from the letter itself, which Mr. Stanley read, they were stated as British conquests; and in another part of the letter, speaking of the cession to be made between the two East India Companies, the terms were used, that such cessions would be great gains to France. Mr. Dowdeswell had laid great stress upon this opinion of lord Chatham, which it appeared from the words of the letter had been misstated from an incorrect copy.

Mr. *Edmund Burke* got up next, and made an apology to the House for his having been silent hitherto concerning this momentous business; he, for his part, had looked upon all true argument either to be lost to the House, or he was not able to understand any that had been urged in favour of the Bill: he looked upon all harangue and eloquence, when it could do no good, to be puerile; and after having made an apology for his silence upon the subject, he said he was determined now to break it, and disclose to the House his opinion, lest such a silence should be construed a dereliction of the cause; that he would now begin to take a bird's-eye view of the whole business. He condemned the appointment of the Secret and Select Committees, which he called the two great luminaries that were to guide the House, and conduct them through the storm into which they had driven themselves. He said that the two Resolutions which the House had come to the first night, hung over the House like the ragged remains of a scaffold of folly after the building was tumbled; that he should rather impute all these proceedings to impolicy than injustice; neither of the committees, said he, have been of any use, especially the secret committee; for you ought at least to have proceeded in some shape or other, upon some ground, whether bad or good, which their labours had laid before you, and which would have at least shewn a decent regard to them; although what had hitherto been done, had been done on the strength of com-

mon fame; that common fame, it was true, might set the enquiry on foot, but could never have sufficient ground for accusation; that it might be a very good breakfast, but at the end of the day would prove to be a very bad supper.

He observed, that lord North had said, that he would not be answerable for the policy and wisdom of these proceedings, but for the necessity of them. He begged leave to inform the House, that he would not also; but that if any person was answerable, no doubt the noble lord must stand to the charge; he could not see throughout the whole of the Bill, that that grim tyrant necessity, had any share or concern in the disfranchisement of the proprietors of India stock in this Bill; that there was no delinquency that could be charged upon the 500*l.* proprietor, nor could he be guilty of splitting of votes; that by this Bill the House had punished the man who could not split stock, and rewarded the man who could; that the Bill cherished the guilty, and punished the innocent: he believed that mischiefs had happened by splitting of votes as stated in the preamble to the Bill; but in this instance the House laid hold of the *bona fide* proprietor by the throat, and strangled him because he was not guilty; that the House ought to answer for the loss of those proprietors, whose abilities had perhaps hitherto guided and conducted the affairs of the India Company, which he, in his opinion, deemed not improperly managed: not that the abuses complained of, either at home or abroad, were existing in the manner represented; and that the only proper check that would be found sufficient for the regulation of India affairs were those democratic abilities from those proprietors, which by this Bill were going to be excluded; that the House had refused to appoint men of that great character for ability and knowledge, both civil and military, to conduct those affairs in India. A man who had rendered such evident services to this country, and who had received the thanks of the House, had, by a vote of it, been excluded from a reward which he ought to have had, and a preference which ought to have been given him, to have assisted in the conduct and direction of the affairs of India in the council abroad. By this vote they had rendered the memory of his services null and void; but the monument of general Wolfe would open its marble jaws, and give you here the lie.

He said, that the House had created very few new powers, or new instructors or instructions, notwithstanding they had blackened in the preamble without cause, those who had hitherto acted; for they had still continued Mr. Hastings, Mr. Barwell, and Mr. Monson; that he was glad to find that these men, though blackened in the preamble, fair again in the body of the Bill. He observed, that this Bill was not, nor could not be supported by fair and solid arguments from its promoters, but was like a foot-ball kept up between heaven and earth by the buffets it received; that they were endeavouring to regulate things by this Bill, which in a short time would regulate themselves by the same powers that had governed that country hitherto well, and were likely to govern it better; that if the House would but allow a short time, these disorders, few as they were, would be able to correct themselves; that the Company surely had done great things, and would still do greater, if they were suffered to go on. He observed, that the appointment of the chief justice and judges was lodged in the King, but that he could see no reason for that, unless metaphors in discourse were become the solid grounds of argument; and that the only reason the House had given for such appointment, was from the common phrase, that the king was the fountain of justice; he was sorry to say, that this Bill was forced in at the end of a fatiguing session, by the unfortunate words 'do something;' that the principle of it was an infringement of national right, national faith, and national justice.

Sir *W. Meredith* spoke next upon the principle of right which this country had to controul the mismanagement in India affairs; he said, that those who gave encouragement to the excesses of that country would be found to be the sure enemy of this.

Mr. *Charles Fox* said he was glad to find that the only man who had opposed this Bill upon principle, was the hon. member (Mr. Burke), that he had indeed spoken with great art, and so long, that he had never once thought of mentioning the debt of the Company, or their bankruptcy; that he was the only one who had carried any degree of consistency in his opposition; for he thought that the directors at home had done nothing wrong or improper; that the council abroad had managed every thing well, and as it ought to be; and that there was no abuse of

power, either at home or abroad; that upon these principles, if he believed them to be true, the hon. member was certainly consistent in his opposition to the Bill throughout, as being both improper and nugatory.

Lord *John Cavendish* spoke a few words in answer to Mr. Fox against the Bill.

Lord *North* said, that it was the almost unanimous concurrence of the House to pass the Bill: that he had been accused of not approving of it himself, by an hon. member who spoke lately in the debate; he did assure him, that he thoroughly approved of it; that he believed the Bill was necessary in every instance; that it carried with it animadversions on criminals, alterations of officers, regulations of various kinds; and that it was not a single regulation that would secure Bengal to this country: that if this Bill passed, though it did not perhaps afford a complete reformation, yet it began a correction of those evils, which future information might complete. He observed, that he had taken a bird's-eye view, as the hon. member had expressed himself, over the whole: and that indeed, when he first saw it, it was a wild, unpleasant prospect of violence, fraud, faction in general courts, collusive votes obtained, and other enormities, which required a controul and regulation to put this commercial Company in a rich and flourishing state; that he was convinced he was a friend to the Company, and that no personal abuse should deter him from pursuing the true interest of it; that the creditors of the Company should never be alarmed, for they should be secured, as a re-establishment of the Company's affairs was the chief object of his heart. The noble lord then shewed, that it had been customary for parliament to regulate and controul the chartered powers of other companies, such as those of Turkey, Russia, and others; that the controuling powers of regulating chartered rights alone belonged to the public; and that he never wished the House, or any person whatever, to take away the profitable part of charters, but only to regulate the executive power. If the measures proposed were not thoroughly the remedy of those evils that were now existing, the House might still go on to correct and amend by future regulations. Throughout the whole of his speech he shewed great abilities, and a strong desire to put the affairs of the East India Com-

pany upon a solid, fair, firm footing; and that he wished them to become a rich, flourishing, and commercial Company.

The House divided upon the question, That this Bill do pass. The Yeas went forth.

Tellers.

YEAS	{	Mr. Burrell	-	-	-	}	131
		Mr. Cooper	-	-	-		
NOES	{	Mr. Cavendish	-	-	-	}	21
		Mr. Hussey	-	-	-		

So it was resolved in the affirmative: and that the title be, "An Act for establishing certain regulations for the better management of the affairs of the East India Company, as well in India as in Europe."

Proceedings in the Lords on the East India Company's Regulation Bill.] June 10. The Bill for establishing certain Regulations for the better Management of the Affairs of the East India Company being brought from the Commons, the Duke of Richmond moved, "That a Conference be desired with the Commons upon the subject matter of the said Bill." This was strongly opposed as an unnecessary application, and what might lead them into a tedious delay of the business. After this question had been debated for a considerable time, the House divided: Contents 12—Not Contents 39.

Then the following motion was made by his grace, "That a Message be sent to the House of Commons to desire that they will communicate to this House the several Reports relative to the affairs of the East India Company, which have been made to the House of Commons by the several Committees appointed by that House, in this and in the last session of parliament, for the purpose of enquiring into the nature, state, and condition, of the East India Company, and of the British affairs in the East Indies; together with a list of the names of the witnesses that have been examined by the said House, or any of the said committees relative to the affairs of the said Company; and of all charters, petitions, accounts, letters, and other papers respecting the same, which have been produced to the said House, or any of the said committees; and also copies of all such Resolutions as the said House may have come to in anywise concerning the said Company; and all other evidences, facts, or matters whatsoever upon which the said House has proceeded, as a ground for passing the said Bill."

Which being objected to: the question was put thereupon. It was resolved in the negative.

Then it was moved, "That a Message be sent to the House of Commons, to desire that they will communicate to this House the several Reports relative to the affairs of the East India Company, which have been made to the House of Commons by the several Committees appointed by that House in this and the last session of parliament, for the purpose of enquiring into the nature, state, and condition of the East India Company, and of the British affairs in the East Indies."

Which being objected to, as contrary to order: it was moved, "To adjourn to Monday next." The same was agreed to, and ordered accordingly.

Protest against the East India Regulation Bill.] The following Protest was entered on the Journals:

"Dissentient"

"1st, Because a Bill evidently taking away, without consent or compensation, several rights and privileges now enjoyed by a great corporate body, purchased for a valuable consideration, and confirmed by the most solemn sanctions of parliamentary faith, can be justified only by such delinquency as incurs a forfeiture of those rights, or by such evident and urgent necessity as admits of no method consistent with the charter of the Company, for the immediate preservation of those objects for which the corporation was formed. The evidence therefore of such delinquency, or such necessity, depending essentially on matters of fact and record, it is impossible for peers to proceed on this business in a proper manner, while they are unfurnished with that information, which it was our duty to demand, and which it was the disposition of the House to refuse.

"2dly, Because the House of Commons had appointed committees to examine into the state and condition of the East India Company, and have from them received several Reports previous to the bringing in this Bill. A previous course of the same kind is equally necessary in this House; nor is it enough for lords to be informed from common conversation that other men have done their duty, as a reason for neglecting ours. This House, nevertheless, (in conformity to its late method of proceeding, but in direct contradiction to the uniform practice and

principle of better times), has wholly declined to make any enquiry into this important and delicate subject; though such enquiry had been strongly recommended from the throne at the opening of this session. We conceive that those who advised that speech were obliged, as well from consistency as from respect to the crown, to have been early in moving a proper enquiry; and not to have opposed it even when a Bill from the other House had, in common decency, rendered it at length indispensable. Not content with this neglect of duty, and contempt of his Majesty's recommendation, a conference with the Commons was also refused; by which, however imperfectly, the inattention of the Peers might have been remedied by the diligence of the other House: and when a concession was made, that the Reports of the Committees of the House of Commons should be laid before us, on condition of their not being read by the clerk, this small concession of imperfect information was immediately withdrawn; and the House resolved to proceed altogether in the dark. We cannot reflect, without the utmost humiliation, on the total revolution which has happened in the sentiments and conduct of this House, within so short a time as since the year 1720, when the Lords, in considering the affairs of the South Sea Company, exerted the greatest diligence through the whole of a very long session, in a strict parliamentary inquisition into facts, before they thought themselves authorized to resort to an extraordinary use of the legislative powers.

"3dly, Because, we conceive that the reason of dispatch assigned for this refusal of all sorts of information to be unworthy the legislative and the judicial character of the House. We are persuaded that, invested as we are, with a public trust of the highest importance, we ought, in all cases, to postpone our amusements to our duties; and are bound to measure our consideration of the affairs before us, not by the season of the year, but by the nature of the business. In the year 1720, the Lords had a conference with the Commons, which began in July, and did not end till the 25th of that month. If we once admit the advanced period of the session as a reason of refusing to ourselves every information required by the case, the Commons have it in their power to preclude the House from the exercise of its deliberative capacity; they have no-

thing more to do, than to keep business of importance until the summer is advanced, and then the delay in that House is to be assigned as a sufficient ground for a precipitate acquiescence in this. Our predecessors in this House were so well aware of the use which, in future times, might be made of such a practice of the Commons, and such an argument drawn from it here, that they have expressly condemned both the practice and argument by our standing order, *Die Martis*, 5^o Maii 1668; which standing order we insert in this protest, that it may appear, that in this obstinate refusal of such an enquiry as the subject called for, the House has trespassed as much against its own rules of proceeding, as against the general rights and privileges of the people.

“ ‘ Upon report, made by the Lord Chamberlain, from the committee of the whole House, concerning the Bill, for raising 310,000*l.* by an imposition on wines, and other liquors; that in regard the said Bill being very long, and consisting of many paragraphs, came from the House of Commons so near the time of adjournment, he was commanded to report it as the opinion of the committee, that it might be entered into the Journal book of this House, that there be no such argument hereafter used in this House, as was upon this Bill, (of shortness of time for the passing of Bills), to precipitate the passing thereof, but that due consideration may be had hereafter according to the course of parliaments. The Lords spiritual and temporal, in parliament assembled, agreed with the report made from the committee, and ordered that this order be added to the roll of standing orders of this House.’

“ 4thly, Because we think, that having rejected the ancient, reasonable, and parliamentary mode of proceeding, the maxim established in its place is dangerous and irrational. We do constantly deny that what is commonly called public notoriety (which is in reality no better than common rumour) is, or can be a ground for any act which may conclusively impair, much less wholly take away, any one of the rights of the subject; such supposed notoriety being frequently uncertain in its foundation, generally under the influence of violent passions, and entirely destitute of that accuracy, which is necessary for ascertaining the nature, extent, or tendency, of any grievance, or consequently for furnishing any wise or adequate me-

thods of redress.—(Signed)—Richmond, Rockingham, Fitzwilliam, Portland, Milton, Devonshire, Ponsonby.”

Further Proceedings in the Lords on the East India Regulation Bill.] June 17. The East India Company having petitioned to be heard by counsel against the Bill, this day,

Mr. Mansfield opened his pleadings in behalf of the Company, to the following purport: He said, that having the honour to be employed as counsel for the Company against the Bill depending, he should first beg leave to state the several charters granted to the Company, and to shew the conditions on which those charters were granted. He began with the Act passed in king William's reign; descanted upon those of succeeding monarchs; touched upon the respective charters of justice and of booty; and concluded by mentioning the Acts relative to the Company, which had passed during the present reign.

When stating the conditions on which these several charters were granted to the Company, he laid before the House the several sums which had been advanced by the Company to the public, for which, he said, the public stood indebted to the Company, to a considerable amount: he therefore contended, that the several charters were not granted, but conveyed to the Company in consequence of a purchase.

He next proceeded to consider how far the legislative power was or was not authorized to infringe upon the charter rights, and violate those privileges granted to the East India Company in consequence of a purchase, and ratified to that Company by the most solemn acts of the legislature. Mr. Mansfield clearly shewed, that the legislative power had no right to set aside charters and render invalid parliamentary acts, unless in cases of extraordinary emergency, or of extraordinary delinquency. That no such emergency existed at present as could justify parliament in their proceedings towards the Company, Mr. Mansfield made plainly appear; and that no extraordinary delinquency had been proved upon the Company, this also the counsel contended for. He said, that no implication of delinquency was to be found, unless in the preamble to the Bill. Was that sufficient ground for a supreme court of judicature to proceed upon? No. Was the bare affirmation of the House of Commons sufficient evidence

of delinquency in the Company? No. Where, then, was the proof of the Company's delinquency? Was it to be taken for granted, and the House of Lords to proceed as if the matter was proved? Was it to be taken from common fame, from rumour, from hearsay reports, from the public prints of the times? Such fame, such rumour, such hearsay report, such public prints, could not surely be read, heard, or admitted in evidence, as competent for the House to proceed to the deprivation of the Company of their rights. From the House of Lords the Company were taught to expect nothing but justice; it was the fountain of justice, and should water the land with its copious streams. If, then, no ground for delinquency appeared; if nothing like proof occurred whereon to fasten an imputation upon the Company of so invidious a nature, the Company had a right to expect to be treated as innocent by that House; they defied even the imputation of delinquency; they called for their accusers; wished them to stand forth; and were ready, by facts incontrovertible, and evidence not to be eluded, to disprove every charge of delinquency that could be laid to their account.

Having thus defended the Company from every suggestion of criminality; having asserted, that if even individuals had been guilty, the Company, as a company, were innocent; having established this position, it followed that the main foundation upon which the Bill proceeded was false, was erroneous. The delinquency of the Company set forth in the preamble to the Bill, was a *petitio principii*, a mere begging the question, and taking that for granted, which remained to be proved; to what end then could this Bill serve? Many evils would attend its passing into a law; what one good purpose would it answer? To each of these questions Mr. Mansfield spoke with a great degree of precision.

Amongst the catalogue of evils, he enumerated the deprivation of almost 1,600 proprietors of stock of the right of managing their own property. This, besides its being a stretch of despotism unequalled in the annals of our country, answered not the end for which the promoters of the Bill pretended it was projected: it was designed to lessen the number of voters, and prevent the splitting of stock; was it likely to effect this? Quite the reverse; for as persons possessing three, six, and

10,000*l.* stock, were entitled to two, three, and more votes in proportion; as this was the case, the numbers of voters were little diminished, though the voters were confined to a fewer number. Was this a judicious measure? For the minister an admirable one, as a select body could certainly be managed with greater ease than a large multitude; but for the Company, it was depriving them of the power they derived by virtue of charters, and it was plundering hundreds of their privileges, without the shadow of an utility accruing to the body corporate of which they were members. In this manner did Mr. Mansfield combat every part of the Bill. He analysed the different clauses relative to the appointment of the governor general and council. He dwelt much upon the vast increase of power to the crown, and inveighed against the establishment of officers with whom the Company had little connexion besides that of paying them their salaries.

With respect to the judges, Mr. Mansfield said, though the gentlemen at present pitched upon by parliament, were men of respectable characters, yet there might hereafter be some persons connected with a minister sufficient to procure this judicial post, though destitute of every requisite to fill, with propriety, the important station. In short, men of infamous characters, by powerful alliance, might be commissioned to embark for India, and the judicial determination of the Company's affairs might be vested in hands too polluted for even the waters between Europe and Asia to wash in innocency. This could not have been the case had the Company's plan, respecting the appointment of the judges, taken place. The Company were to have nominated; the chancellor, chief justice, and other judges, to have approved; and the crown to have ratified the appointment. The wisdom as well as utility of such a plan was evident; a mutual check was established, and scarcely was it possible that any person could have been chosen to the office who was not in every respect eligible.

Mr. Mansfield then recapitulated the several arguments he had advanced; he laid a more than ordinary stress upon the violation of charters and breach of that parliamentary faith for which hitherto this nation had been renowned. If a breach of charters and parliamentary faith were allowable in one instance, why not in many? If in the case of the East India

Company, why not in the case of the Bank, nay, why not in the case of every noble member of that House? For, said Mr. Mansfield, your properties and honours, my lords, are secured to you only by acts of the legislature not more solemn, not more binding, and, if this Bill passes, not more permanent than those granted to the East India Company for the security of their property, their immunities, their possessions.

Mr. Adair opened by stating the general principles of policy which should prevail in every well governed state. He said, that legislative bodies of men were entrusted with power, upon a supposition only that that power should be exercised for the good, not the detriment, of the community; that whenever measures were proposed detrimental to the community, it became an abuse of power in the legislative body.

Consistently with this position, Mr. Adair proceeded to shew that the East India Bill was manifestly injurious to a part, and would in its consequences prove detrimental to the whole of the community. He began by a recapitulation of the several charters granted to the Company, and endeavoured to shew, that in former reigns the different agreements between the crown and the Company were so tenaciously observed, that no violation on the part of the crown took place, no alteration even in the Company's affairs was ventured on, without previously obtaining the Company's consent. This gave him occasion to contrast the present with the mode of proceeding in former reigns; and from the caution used by the crown in former times not to violate a single right appertaining to the Company, the complexion of the present æra appeared more shaded with tyranny.

Mr. Adair next mentioned five particulars in which the Company were injured by the Bill, but as some of those particulars had been touched upon by his leader, Mr. Mansfield, Mr. Adair arranged what he had to say upon the subject under two heads, the regulations proposed by the Bill at home and in India.

The regulations at home he confined to the annual election of the directors, and the depriving such numbers of their right of voting upon the occasion. With respect to the annual choice of directors, he said, the Bill was to the last degree inconsistent, as it both condemned and approved the annual choice; it condemned it by de-

claring that directors should continue in the direction for a term of years; and yet it approved of an annual choice of a certain number of those directors. Mr. Adair contended, that an annual election of six might be attended with as violent commotions as an annual election of twenty-four directors.

The regulations proposed by the Bill abroad, Mr. Adair arraigned thus; he said, that the preamble to the Bill set forth, "that the powers hitherto possessed by the Company, were found insufficient to correct the abuses which prevailed." How did the Bill propose to obviate this difficulty? By vesting the Company with greater powers? No; but by taking away those it already had! A singular method of preventing abuses by taking away the power of correcting them!

Next with respect to the regulation as to officers. The Bill goes upon this principle, that "abuses have prevailed, owing to the insufficiency of power vested in the Company's servants." Does it supply this insufficiency? No; it only confirms a power the Company's servants formerly enjoyed. Nay, it absolutely re-invests one of the Company's servants with the authority he now possesses. Mr. Hastings is to be governor general, only he is to hold of the parliament instead of the Company; but this very choice of Mr. Hastings affords a strong presumption, that the Company's regulating plan has been equal to that proposed by this Bill, for the minister has not been able, either in Europe or in Asia, to cast his eye upon a man better qualified to carry every regulation into execution, than the very person pitched upon for that purpose by the Company.

Mr. Adair then mentioned the regulations made by Mr. Hastings, and asserted, that they would answer the purpose much better than those contained in the Bill. He dwelt upon an inconvenience which would happen in case Mr. Hastings should die. The commander in chief would, he said, be invested with the whole civil as well as military power, an evil hitherto avoided by the Company. In short, the Bill, according to Mr. Adair, would overturn the democratical part of the Company, and change it into an oligarchy, more easily to be moulded by the plastic hand of a tyrannical minister to his will; it would injure the constitution, by increasing the power of the crown; it would destroy the Company's trade; it would ruin their property; it would render par-

liamentary faith precarious, and by shaking the foundation of our funds, it would probably involve the Bank as well as the East India Company in one common ruin.

Mr. Adair then related the following story, which he said rested upon the faith of the late sir James Porter, our ambassador at Constantinople. There happened in that city a terrible conflagration, which reduced some buildings belonging to the state to ashes. To prevent the like accident in future, the grand signior proposed that the fabric should be rebuilt, and a wall at a certain distance erected around it. To accomplish this scheme the houses of several citizens, which stood in the way, were to be pulled down, the state allowing the owners a proper compensation. A poor widow occupied one of these houses; she was applied to, but absolutely refused to quit her house or consent to have it pulled down on any condition. The officers remonstrated; she persisted in her obstinacy; the matter was represented to the grand signior, and some of his courtiers alledged, that as the building was designed for public utility, the old woman's house should be pulled down if not with, without, her consent. The grand signior objected in the strongest terms to the injustice of the measure, and concluded by saying, "this must not be; for property must be preserved inviolable and sacred." The woman was therefore suffered to live in her house, and it was not until after her death that the public building was carried on. After relating the story, Mr. Adair called upon the House in the most solemn manner, seriously to consider the fatal consequences which would attend passing the Bill. If it was to be passed, and the proprietors to be deprived of their rights, government, he said, ought in justice to make the Company a proper compensation, without that the proceedings of government would be deemed to the last degree arbitrary, and such as the East India Company could submit to only from the impossibility of resistance.

Mr. Adair then concluded by informing the House he was authorised by the Company to claim it as a matter of justice, that a speedy discussion of the question concerning the right to the territorial possessions might be obtained; for that as the Company were not desirous of keeping any thing to which they had not a legal title; so neither were they disposed to part with what the laws would protect them in possessing. Not but, said Mr.

[VOL. XVII.]

Adair, I can assure your lordships, the Company would much rather have the question concerning the right to the territorial possessions, determined against them than retain those possessions under such conditions as are annexed to the Bill now before your lordships.

June 19. After a warm debate, the Bill was read a third time and passed upon a division. Contents 47; Proxies 27—74. Not Contents 15; Proxies 2—17.

Protest against passing the East India Regulation Bill.] The following Protest was entered upon the Journals:

"Dissentient,

"1st, Because the preamble to this Bill, stating defects in the powers of the East India Company, abuses in its administration, and injuries to public and commercial credit, ought to have been supported by evidence adapted to the nature of the several matters alleged: but the production of charters has been refused by the House; no witnesses have been called to ascertain the existence or quality of the supposed abuses; no enquiry has been made into the condition of public credit; and no state of the Company's commercial affairs has ever been laid before us:

"2dly, Because, if the defects in the charters, and abuses in the administration of the Company, exist in the manner stated in the preamble, no effectual provision is made in the enacting part of the Bill for supplying the one or reforming the other. On the contrary, the utmost distraction is introduced into the whole oeconomy of their affairs. The nomination to the subordinate presidencies and inferior offices in India is left to the Company; but a superior presidency is appointed by parliament to govern those inferior officers. The superior presidency is to receive orders from the court of directors; but it is left to the private will of the King how far these orders shall be obeyed: the presidency is appointed to make ordinances and regulations; but neither directors nor Company are to determine on their validity: the King alone is to allow or disallow those acts, as he shall choose to signify his pleasure under his sign manual. This mode of vesting ultimately the whole management of the Company's weighty political affairs, their vast revenues, and their extensive commerce, in the King's private discretion, without

[3 N]

any provision in the Bill for the intervention of any public body, (either the East India Company, or the privy council), or any responsible public minister, is, we insist, not only an high and dangerous violation of the yet unquestioned charters of the Company, but a total subversion of all the principles of the law and constitution of this kingdom:

“3dly, Because the election of executive officers in parliament is plainly unconstitutional, and an example of the most pernicious kind, productive of intrigue and faction, and calculated for extending a corrupt influence in the crown. It frees ministers from responsibility, whilst it leaves them all the effect of patronage. It defeats the wise design of the constitution, which placed the nomination of all officers, either immediately or derivatively, in the crown; whilst it committed the check upon improper nominations to parliament. But this Bill, by confounding those powers which the constitution meant to keep separate, has destroyed this controul, along with every wise provision of the laws to prevent abuses either in the nomination to, or exercise of office.

“4thly, Because this usurpation of the Company's rights in appointing the servants is loaded with the additional injustice of a compulsory payment of salaries, arbitrarily fixed and chargeable upon the Company's revenues, without their consent:

“5thly, Because the violation of the charter is not justified by the importance of the provisions of this Bill, which operates only to transfer patronage without conferring new powers: it being expressly provided by the Bill, that these powers should be the same as were formerly exercised by the Company's servants under the Company's authority. Neither is any advantage gained with regard to the particular officers named in this Bill. The person first in rank and importance in the new parliamentary presidency, being the very same now at the head of the Company's presidency in Bengal. We mean to reflect neither upon that gentleman nor on any other appointed, who (for any thing we know to the contrary) may be men of competent ability and good character; but we think ourselves bound to declare against the manifest contradiction and absurdity of this Bill, which stating abuses as now existing in India, for the ground of its regulations, yet appoints the very persons to preside there, who, if the

allegations in the Bill be true, must be concerned, either by neglect or actual commission, in all the abuses complained of:

“6thly, Because the appointing judges by the nomination of the crown with large salaries, payable out of the Company's revenue, without the Company's consent either to the appointment or the payment, is an act of flagrant injustice, and an outrage on all the rights of property. No necessity can be pleaded in favour of this violence, as the Company did last year voluntarily propose a nomination of judges, with far better provisions for securing a proper appointment than any contained in this Bill:

“7thly, Because the clause of this Bill which deprives of all share in the management of their own property all proprietors not possessed of 1,000*l.* capital stock, disfranchising, without the assignment of any delinquency or abuse, no less than 1,246 persons legally qualified, is an heinous act of injustice, oppression, and absurdity, and a gross perversion of the high powers entrusted to legislature. The part of the charter which regulates the right of voting was made to establish exclusively that class of voters which this Act has destroyed. The charter knows of no right of voting but the possession of 500*l.* capital stock. It excludes all title to superior influence from superior property. The several laws to prevent the splitting of stock are all in affirmance of this principle, and made to secure this voter. But, by a system of contradiction, that except in this Bill, has no example, the very grievance of splitting of stock, by which the proprietor under 1,000*l.* has been injured, is assigned as the sole ground for depriving him of his franchise. This lower proprietor could not possibly have been guilty of this offence, and yet he is punished; and the large stock-holder, who alone could be guilty of the splitting, is indulged with new privileges, in contradiction to the spirit of that charter which he is supposed to have violated:

“8thly, Because the lengthening the continuance of the direction, while the body of the proprietors is disfranchised, and the making the directors dependent on the private will of the King for the exertion of the little authority left to them in India by this Act, tends to pervert all the powers of that great body into mere instruments of the court, and to extend influence of the worst kind in the worst manner in which it can be exerted.

"9thly, Because the great principle upon which the Bill has been supported will not only in this, but in all cases, justify every infringement of the national faith, and render parliamentary sanction the worst of all securities. We never can admit that a mere speculation of political improvement can justify parliament in taking away rights which it has expressly covenanted to preserve, especially when it has received a valuable consideration for the franchises so stipulated. Nor are grants of parliament under these circumstances to be considered as gratuitous donations, resumable merely at the pleasure of the giver, but matters of binding contract, forfeitable only on such delinquency or necessity as is implied in the nature of every other bargain. With such matters before us that require the best, we are denied all manner of information. A Bill, the object of which has taken the Commons near eight months to consider, is precipitated through this House in little more than eight days, without any attention to parliamentary usage or decorum; as if the Lords were the lowest of ministerial tools, who are not to be indulged even with an appearance of discussion concerning the mandates they receive. In this situation we feel the honour of the peerage tarnished, and its dignity degraded. If the provisions and precedent of this Bill should render the public faith of Great Britain of no estimation, the franchises, rights, and properties of Englishmen precarious, and the peerage distinguishable only by a more than common measure of indolence and servility; if the boundless fund of corruption furnished by this Bill to the servants of the crown should efface every idea of honour, public spirit and independence from every rank of people; after struggling vainly against these evils, we have nothing left but the satisfaction of recording our names to posterity, as those who resisted the whole of this iniquitous system, as men who had no share in betraying to blind prejudices or sordid interest every thing that has hitherto been held sacred in this country. (*Signed*)

Abingdon, Torrington, Boyle,
Grosvenor, Devonshire, Ponsonby,
Portland, King, Milton, Richmond,
Archer, Rockingham, Fitzwilliam."

Lord North's Speech on opening the Budget.] June 15. The House went into the Committee of Ways and Means; upon which,

Lord North rose to open the Budget, and said, that the situation of the finances was such, that there would be no surplus to dispose of, and that he should pay off this year no part of the national debt: that he lamented much the deficiencies of the present year, and mourned over the exigencies of a great company, which he should endeavour to the utmost that lay in his power to set right, and put upon a proper basis of prosperity. He then gave an account of the different estimates of the ordnance, army, navy, and miscellaneous services; as also an account of what would be wanted for things which the House might adopt. He alluded, he said, to some private petitions which had been presented, which would take up some small sums, Dr. Williams's petition for a reward for a useful and practical discovery of making green and yellow colour to be a fast dye in cotton and linen; and also another petition for Messrs. Hodgsons, brewers, at Bow.

He then went through the different sums provided for the before-mentioned purpose; and said, that as to the money from the sale of the ceded islands, he made no manner of doubt but the gentleman (sir W. Young) to whom that matter was entrusted, would give a fair and just account of it when he came home; that at present, though he had the two preceding years estimated at 50,000*l.* each year, and should do the same this year, yet he had only now received 5,000*l.* out of the sum of money that those ceded islands were expected to return. He, however, made no doubt that as that gentleman was coming over, he would give a sufficient reason for not having remitted a greater sum. He then said there was 20,000*l.* due from the French prizes in Jamaica, which was not yet received; but as there were assets sufficient where-withal to pay that sum, he should make no doubt of its being forthcoming, that the expences of the last lottery were 14,000*l.* but he had a surplus from another account which would make that even. He then entered upon the insufficiency of grants, malt, land tax, and others, which he made to be about 458,000*l.* He said, that as to the India Company, every one must know, that a petition was preparing to be presented, to say that they would not at any rate receive the loan of 1,400,000*l.* but he looked upon it the interest of parliament to secure that Company in case the loan should be refused. He then stated the

debts which they owed, which he made to amount, with interest as due to the public, to 954,000*l.*; that he should be sorry and loth for the public to proceed by exchequer process to pay themselves, but that they could not wait for their money; and if necessity demanded it, they must do it; that they owed a capital sum to the Bank of 500,000*l.* which they could not stay for; and though they wished to give every assistance to the sister Company, yet it could not be expected that they would wait any longer with patience, and injure themselves. He then stated the bills of exchange due from them, to amount to 600,000*l.* and observed, that the situation of the public and the Bank was dreadful; for as they must have their money, the only effectual means to prevent the process against the Company, would be for the House to proceed with the loan Bill of 1,400,000*l.* to be lent on the India Company security, and pay themselves with part of the money, even without the consent of the Company; that he hoped parliament would not in any shape, vary or swerve from the resolutions they had come to; and that if the Company would not provide for their own security and prosperity, it was the duty of parliament to interfere to take care of them and their concerns. He wished every proprietor to feel as much as he really from his heart did, for the security and welfare of that Company. He ventured to say, that no man had felt more, nor wished more eagerly than he did to put their affairs upon a permanent footing; that if this loan should not answer the purpose, he should think it his duty to add loan after loan to secure the Company; that he would answer, that government, so far from taking money from them in their present exigency, would forego every emolument, and every degree of profit, and not receive a single shilling from their revenue till such time as every man could say with confidence that the East India Company was saved; till that time the public would forego all participation. He then ran over the heads of the sums he had before mentioned, and proposed borrowing on Exchequer bills to be issued out upon the next year's aid, for 1,400,000*l.* charged upon the produce of the India Company, and the aids of 1779; that this year there might be a surplus of 254,000*l.* which he wished to keep as a reserve, lest any alteration should happen from the present general tranquillity; not that there was

any likelihood of the late troubles being revived. He could have wished, he said, to have gone on upon the plan of last year, of paying off part of the national debt, but circumstances had happened which prevented it; he did not intend to propose a lottery this year, not for any reason that was urged in the petition that was this session presented by the city of London, but from some strong reasons of his own; that, as there had been lotteries for eight years last past, he thought a little rest to the people's inclinations would not be amiss, and that this matter of lottery would come out with fresh spirit the next session of parliament; it would then be a new thing; and he thought that, in a year in which no great plan of finance was undertaken so as to pay off any part of the national debt, that a lottery might be for once omitted. It might be asked, he said, what have we done this year? He was sorry to say, but little; and that the next session of parliament must enter upon a revision of the plans they had adopted for the India Company, before that great end could be obtained, the permanency of the India Company; that he had a consciousness of his own proceeding, that he thought it was right and consistent with his duty in procuring the prosperity of the Company; that he should always stand corrected, and give way to the future events that tended to the good of the Company, but he declared to the House, that he never would abandon the pursuit of the permanent situation of that great Company upon any other motive than conviction; that he was not to be teized or frightened out of his plan, which he was convinced was both for the public security, as well as that of the Company; that, though he was fond of indolence and a retired life, yet, ever since he had entered into office, he had not been unused to contradiction, nor unacquainted with storms; that others might succeed to the Temple of Fame, by parts, by eloquence or a great genius; but that he, having none of these qualities, thought himself happy in doing, in this instance, what was right, and his duty to do; that he entered upon his great office in a moment when things were not in a most pacific situation; that he had hitherto continued in it with resolution to do his duty, and that he should persist in what he thought right, in defiance of all noise and clamour; that he was determined to abide in the post in which he had laboured, and should not willingly relinquish the trouble

of it; that though those who looked into his conduct might perhaps see indolence and a love of ease, yet they should not find a want of an honest perseverance in a great and public cause.

No reply was made to this speech.

Petition of the East India Company against the East India Loan Bill.] June 15. Mr. Boulton presented a Petition from the East India Company, taking notice of the Bill for granting to his Majesty a sum of money, to be raised by Exchequer bills, and to be advanced and applied in the manner, and upon the terms, therein mentioned, for the relief of the united company of merchants of England, trading to the East Indies; and setting forth, "That various restrictions and conditions are imposed on the East India Company, respecting the disposition of their property, which the petitioners conceive to be highly injurious to their rights, interest, and credit, which restrictions and conditions are chiefly founded on a petition, which they presented on the 2nd of March last, with a view to an amicable agreement between the public and the East India Company; and that the petitioners were in hopes they might have obtained the assistance of the public, without annexing terms to that assistance, which must render it more prejudicial than advantageous; and that the petitioners, sensible of the sufficiency of their credit, have determined to depend on the laws of their country, and submit to the temporary difficulties which may attend the present situation of their affairs, rather than receive the loan offered to them upon the very severe conditions prescribed; and that the petitioners are extremely sorry to find that the territorial acquisitions, which they obtained at so great an expence and the imminent risk of their whole capital, should have created so much prejudice against them; since it is evident, whether those acquisitions belong to the India Company or the crown, they must ever be considered as of the highest advantage to this nation; but it is far from the desire of the petitioners to possess what doth not of right belong to them; therefore, finding the undue interposition and the various oppressions which have flowed from this pretended source, the petitioners have before called for a legal decision of those rights; and therefore it is with the more surprise, that the petitioners now find the holding possession of those acquisitions

should be made the ground of overturning their most essential privileges, and of establishing a mingled jurisdiction, comprehending both their trade and revenues, which hath no foundation in the principles of the English constitution, or of any other well governed state; and must prove as prejudicial to the liberties of the people by the encreased influence of the crown, as it will prove to the rights and property of the East India Company: and therefore praying the House, to grant the petitioners leave to withdraw their said former petition, presented to the House on the 2d of March last, and also their other petition, presented on the 17th of May last, which accompanied certain regulations proposed by themselves, for the more advantageous management of their affairs, and the due administration of justice in India; an indulgence which they are the more earnest to obtain, lest posterity, reviewing the transactions of this period, should impute to the petitioners the having been accessory to measures, which, by vesting unnecessarily in the crown the disposal of so many great and lucrative employments in India, tend, in the petitioners' opinion, not only to bring ruin upon the Company, but to destroy the just balance of this free constitution."

Debate in the Commons on the Petition of the East India Company, and on the East India Loan Bill.] Mr. Boulton then moved, That the petitioners have leave to withdraw the said petitions.

Mr. Cornwall begged leave to observe, that this petition came before them without being determined at the India-house by ballot, as all other great and important questions were; that he believed that there were very few of the real proprietors, whose hearts went along with the prayer of the petition, and many others, who, had they been present at the Bill, would not have given their consent to the refusal of the loan, when they knew that the inevitable consequence would be a total stop to all dividend; that as to the 400,000*l.* which was paid to government, much had been said with regard to their being able to afford it; but that he was of opinion, that those who did vote it, had either an evil intent to deceive the proprietary, or a desire to divide 12 $\frac{1}{2}$ per cent. at the risk of their capital. From this it appeared, for he would not accuse them in harsher terms, that those who conducted the affairs at that time, had

not the knowledge of the ability of the Company; that upon this, stock rose to 220, and their views perhaps were then answered, by being able to sell their capital at so high a price. He observed, that those men could not be deemed proper judges of their own affairs, who had conducted them with a want of knowledge hitherto so apparent; that he was surprised that these very people should have sat 18 months at the India-house, and never once asked the advice or assistance of parliament: that it was plain, that such regulation of their affairs was not the object they had in view; but let those gentlemen in this House now consider to what a dilemma the situation of their affairs were brought, and to what a distress their creditors were come. A legal remedy by exchequer process, in such case, would be ruin to the Company, and an injury to the public. They tell you they will not receive the loan—who are they? Why, the 500*l.* proprietors, and those very men who have proved themselves inadequate to the trust reposed in them, and incompetent to the knowledge of their affairs. He wished the House would not suffer those men, whom they had deemed improper to determine upon a question of this magnitude to the widow and foreign proprietor, whether they should receive the loan or not; that nothing but scenes of distress and ruin would ensue, if no dividend was to be had. The widow, he said, whose only pittance depended on the dividend, would be obliged for support to sell her capital; and what would carry with it a degree of greater hardship, would be the case of the tenant for life, who perhaps has no other support, and cannot be empowered to sell any part of his capital for his maintenance; that this last case would be peculiarly hard; that by the sale of the widow's capital, the stock would be lowered to near 70, and by next session of parliament you would have a petition from some of these very caballing proprietors, that they would accept of the loan; that though he would not charge them with such a piece of iniquity, yet no doubt they would have purchased stock at the price of 70, while, by the petitioning next session to parliament to receive the loan, the stock would be raised to 150, or more. He wished the House to consider whether they would suffer these men to act thus, by having it in their option to refuse the loan: he wished that some scheme might be adopted on this

plan, to make it compulsory; he said, that the Company, it was true, had purchased in their last charter a continuance of their trade, but they had not the least idea of purchasing either empire or dominion; he thought that the tender hand of government was much to blame, in suffering the appointment of the civil officers in India, as directed in the Regulating Bill, to revert to the Company; but he hoped that would be otherwise ordered in another session. He was strongly of opinion in this instance, that the option of refusing the loan should not be left in the Company, but made compulsory by parliament.

Governor *Johnstone* hoped that the acquiescence of the Company, in giving the 400,000*l.* would not be considered as a blame, or charge of their ignorance. When the noble lord on the Treasury-bench had declared himself in a mist about India affairs, was it any wonder that the proprietors should be ignorant? All the India Company wished was, that the law should take its course, and that future ages might know that they did not consent to the loan offered by parliament. Let government, he said, limit them to what dividend they pleased, during the time they owed them any thing, or had any other creditors, but parliament ought not to restrain them afterwards by limiting their dividend: he believed he might venture to assert, that they would not give up their rights as long as any of the laws would protect them. He thought the case of the Company and government to be similar to that of the grand seignior and an old woman, whose obstinacy refused the grand seignior leave to erect a fort in the place where her house stood: the grand seignior found the old woman in possession of the house, and even in that arbitrary country, he could not turn her out without her consent; she claimed it as her right; the India Company claimed this as their right; and, he hoped at least, that the minister of this country would not act in a more arbitrary manner than the grand seignior.

Lord *North* desired the hon. gentleman to recollect, that the action at law for remedy by government was upon the tea duty, but that the debts due and owing by them for the customs, might be recovered by exchequer process, the Company having given bond for the payment of them and other duties. He hoped still, that the Company might be enabled to govern themselves, but if they could not, other me-

thods must be found to govern them; the blame would lie upon them, in having refused to co-operate in the regulation; they had laboured hard to prevent the execution of such relief; that he should however rest satisfied, that he had endeavoured to do every thing that was right. He replied to the story of the grand seignior and the old woman, and in a very jocose manner compared the old woman to the India Company, and retorted the sting of the story upon them. He said, that it was not in this instance the grand seignior who wanted the lands of the old woman, but the old woman wanted the grand seignior's money; that she was an obstinate, perverse old woman, unwilling to comply with any proposition for her good, and that when the grand seignior tells her that he will relieve her from all her distresses, and save her from destruction, this obstinate old hag cries out, "No, I will not be saved! you shall not have the reputation of doing me service!" that this was the state of this good-for-nothing old hag, that sooner than comply with a plan for her safety, she would suffer herself to be totally ruined: he said he thought this nearly similar to the government and the Company, and he would be content, and was resolved to go steadily on in the plan which he had began upon. Surely it was not a bad principle for parliament to adopt, to lend the Company what sums of money they might want, and for the public to forego every shilling of emolument till all their debts were paid and the Company put once more upon a firm and solid ground; at least this principle ought not to be condemned by the Company, for whose good it was intended, but if they did condemn it, he should still persist in doing what he thought right.

Mr. *Dempster* made some few observations about the right of the charter; that at the time it was granted, the persons concerned in giving that power wished, by the language of it, an extension of territory; that the chairman of the Company, when that large dividend of $12\frac{1}{2}$ per cent. was made, was not a person who entered into stock-jobbing schemes; that he looked into the state of their affairs, but did not look far enough, though he looked perhaps farther than any other chairman ever yet had done; that all the Company wanted was now answered by this protest, whether the petitions were given back or not.

Mr. *Dyson* observed, that the petition

which they had just presented, stating that they had a sufficiency of credit, and other matters of great importance, was not had upon ballot at the India house; that the prayer of the petition was to return back the petition requesting the loan of 1,500,000*l.* which was upon ballot; that he should not give credit to the latter, as it was not upon ballot, but preferred the proposition of the former, as being the more authentic wish of the proprietors than the petition presented this day.

The motion to withdraw the petition was rejected without a division, and the House went into the committee upon the Loan Bill, and proceeded in the same till they came to the clause which left the option to receive the loan in the East India Company; upon which

Lord *North* said, that he hoped justice would be done to the motives of parliament; that it was not till after parliament was informed that the India Company would not consent to receive the loan, that a compulsory method had been thought of or adopted; but as he perceived it to be the sense of the House to adopt the compulsory mode, he should move to adjourn the committee, to the farther consideration and alteration of that clause.

Mr. *Walpole* foresaw that great inconvenience would arise by suffering the government of the Company's affairs to continue in the hands of the 500*l.* proprietors till the new direction, which was composed of 1,000*l.* voters, which did not take place till October next; that he thought the Company and proprietors were become lunatics; that they were no longer merchants, nor could be considered in a commercial light, as they refused this loan, which would be alone the substantial basis of their credit. That the petition presented this day set forth a sufficiency of credit, but that he could not find it out, when they were over head and ears in debt, and had no money, and could not raise those demands; he could not call this credit: but if the petition had set forth that they had a sufficiency of faction, of lunacy, of cabal, and of ignorance, he should have believed it, but he never could have credited that a company of merchants would refuse to accept a loan that would enable them to pay their creditors, had he not seen it under their own hand in the petition this day presented.

Mr. Solicitor General *Wedderburn* said, the only idea he had of a dividend was,

after all their just debts and outgoings were paid, that if the Bill was to stand with an option in the Company, they would, by refusing the loan, prevent thousands from receiving any dividend at all; and then it would be the 500*l.* voter who disposed of the property of others, and debated and decided whether it was proper he should receive any dividend or not; that the case of the widow would certainly be a very hard one, who might be obliged to sell out her capital for support; but there was a case of a much more cruel nature, which was that of the tenant for life, who was not able to dispose of his capital, and in this case would receive no dividend. Did the House, then, not think that these injuries ought to be guarded against? He said these 500*l.* voters were sitting in judgment on the property of others; and therefore the controul of parliament was highly necessary; it was more lawful to destroy one's own property in this case than that of others; that a man was not allowed to set his house on fire, for fear of endangering the whole street; nor was it lawful for him to dispose of his own property where others must fall equally with him; in this case the widow and tenant for life were ruined by the act of their own trustees. Was it just the proprietors should have a dividend? If it was, then was it expedient and just whether they consented or not? Then holding every proposition to be right and justifiable, it wanted no consent of the Company, but the direction only of parliament.

Mr. *R. Fuller* got up to say, that the Company had been called lunatics. No, Sir, he said, it is not lunacy; they know what they are about too well; these are the last struggles of the 500*l.* voters; they are not to part with their votes until the 1st of October; great mischief may be done between this and then; I wish they were to part with them to-morrow, and then you would have none of these struggles.

The House then adjourned the Committee till the next day.

June 17. The order of the day for the recommitment of the East India Loan Bill being read,

Lord *North* rose and informed the House, that on account of the uncommon difficulties that attended the Bill in its original form, arising from the possible ruin of the innocent part of the proprietary on one hand, and the urgent necessity there

was for the interposition of parliament in behalf of the public interests on the other; it was the general sense of the House, that the principles on which the Bill was first framed should be changed, and that it should otherwise undergo several material alterations, both in respect of its being made compulsory, instead of optional, and some other matters that were not objects of the Bill in its former state. His lordship then proceeded to state, that the claim of the public to a participation of the territorial revenues was intended to be given up for the present; that the loan, and the restriction to divide no more than 6 per cent. till the former be repaid, should stand precisely on the same footing as before, with this difference, that the Company should be now compelled to accept it; that after the re-payment of the loan, they should be further restricted to divide no more than 7 per cent, till their bond debt was reduced to 1,500,000*l.*, that when this reduction was effected, the whole of the territorial revenues and commercial profits should remain with the Company, and be applied in the manner most conducive to their interests, to those of the public, and the security of their creditors, as well as to provide for future emergencies and contingencies: and that the term of six years, to which the operation of the Bill was first meant to extend, should be entirely left out in the present. His lordship further informed the House, that he had a clause to propose from himself, which he believed would be very acceptable to the Company, for omitting the sums due for penal interest.

Sir *Richard Sutton* entirely approved of the Bill as intended to be altered; his opposition to it before arose from the implied decision of the right to the territorial acquisitions; and that invincible objection being now removed, he observed that the interposition of parliament in the present dangerous and critical state of the Company's affairs was become extremely proper, and justifiable on every principle of reason and sound policy.

Several material amendments being made in pursuance of those ideas, and clauses proposed and agreed to, which could not be otherwise introduced without framing the Bill anew, Mr. *Cowper* said, that he had one to propose, which he supposed would appear somewhat foreign to its general tenor. The necessity for such a clause was however apparent, he said, as an Act passed in the year 1768, for

obliging the Company to export manufactures of the produce of Great Britain to the amount of 387,000*l.* annually, would expire on the 29th of September next; his intention therefore was, that the above Act should be continued for a limited time, by a clause in the present Bill. This met with some slight opposition from Mr. Boulton and Mr. Sullivan; but lord North observed, that it was a matter of too much delicacy to decide on suddenly, as it required the most mature consideration. His lordship further observed, that he had another clause to propose which he believed was liable to the same objection as that offered by his hon. friend. He remarked, that one grand source of the Company's present distresses proceeded from the bills drawn on them by their servants in India; he therefore proposed to bring up a clause to prevent the Company, during the continuance of the Bill, from accepting bills to the amount of more than 300,000*l.* in any one year without the consent of the Treasury. This, with very little opposition, was agreed to; and the amendments being gone through, the Bill was ordered to be reported the next day.

June 18. The Bill was reported with its amendments, and Mr. Cowper's clause relative to continuing the exportation of the manufactures of Great Britain brought up. This produced a debate, when administration relaxed, on a proposed amendment of governor Johnstone's; when it was determined, that instead of 387,000*l.* the Company should be obliged only to export annually 287,000*l.* worth of the manufactures of Great Britain, to the 29th of September, 1775.

Governor *Johnstone* said, that by the last accounts from India it appeared, that there were woollen goods, under the denomination of long-ells, then in their warehouses at the different presidencies, to the amount of 407,000*l.* which, with what came since to hand, might be well estimated at 480,000*l.* that it had been a losing trade for many years; that any person acquainted with the hot climates must know how very perishable such a commodity was in that country, being usually moth-eaten and of no value in two or three years at most, and consequently might be looked upon as little better than a total loss; that the sales in India for some years past on this article were considerably under invoice price: that there was little prospect of an increased vent,

[VOL. XVII.]

either in China or the gulf of Persia, the only places where such goods could be disposed of in any considerable quantity; and that it was equally unjust and absurd to blame the Company for running in debt, and for being embarrassed in their affairs, and at the same time to compel them to contract more debts, without the least prospect of being reimbursed in any manner whatever.

Mr. *Jenkinson* replied, that this was taking up the argument entirely on a wrong ground; that the question was not, what was the loss on this or that particular article, but what were the net profits on the export trade taken together? This, he affirmed, was very considerable; which he proved by an average estimate of ten years, which he read out of one of the Reports from the Secret Committee which lay on the table. He said besides, that the loss on the invoice price was not to be looked on as so much real loss, there being always 10 per cent. advance laid on the first cost of all goods exported.

Mr. *Sullivan* remarked, that ever since his knowledge of the Company's affairs, the export in woollens had been always a losing trade; that the average of five years preceding 1768 was very fallacious, if meant to be taken up as a precedent to found a compulsory law on; because the export trade, within that period, was swelled beyond its natural channel, in order to undersell and rival the Dutch and French at all the markets of the East, which in the end proved very detrimental to the interests of the Company. That what the hon. member had stated, relative to the advance of the invoice price beyond the prime cost, however true, was by no means conclusive in the present instance, because it fell very short of the expence incurred by the extra shipping employed for that purpose.

Sir *W. Meredith* said, that the prime, nay, the only object, which induced government to grant the Company an exclusive charter, was to encourage the manufactures of this country: yet they now wanted to get rid of the only thing which ought to prevail on the public to continue a monopoly so extremely ruinous in many respects, to the interests and manufactures of this country.

Governor *Johnstone* by no means intended to oppose some restrictions being laid on the Company; but what he contended for was, that they should not be enforced to the extent now argued; that

[30]

he had, according to those ideas, been instructed by the committee at Leadenhall-street to resist it on that ground; that he did not choose to tire the House at this season with a fresh opposition, but he trusted administration itself, all circumstances considered, would see the propriety of relaxing in some degree.

Lord *North* very strongly enforced the arguments started by Mr. Jenkinson. He said that several applications had been made by persons in the manufacturing counties to oblige the Company to a continuance of their agreement; that considering the present low state of the woollen manufacture, if such a permission as that desired by the Company were to take place, it might be productive of the most fatal consequences to that branch of our trade; and that, however severe the present clause might seem, it could be looked upon no more than as a kind of tax paid to the public at large, for the many exclusive advantageous privileges the Company enjoyed by charter.

Mr. *Purling* differed totally from his lordship in his conclusions relative to the supposed operation of the clause respecting the encouragement intended to be given thereby to the woollen manufacture, as the rottenness and badness of the commodity, by being kept too long on hand, would totally destroy its credit at all the eastern markets; by which that valuable branch of export would be in the end totally lost to the nation.

The proposed amendment at length took place. The Bill was ordered to be engrossed. On the 19th it was read a third time and passed.

The King's Speech at the Close of the Session.] July 1. His Majesty came to the House of Peers, and put an end to the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"I cannot close this session without assuring you that I have observed, with much satisfaction, the zeal, assiduity, and perseverance, with which you have applied yourselves to the very important business which, at the meeting of parliament, I recommended to your particular attention; and I hope and trust, that the laws which have been the result of your deliberations will be found to answer the salutary purposes for which they were intended.

"The continuance of the war between Russia and the Porte (with both of whom I

am closely connected in friendship, although under no engagement to either) gives me great concern; but, from the pacific dispositions of other powers, I have reason to hope that those troubles will extend no further. I shall persevere in my earnest endeavours to preserve the general tranquillity of Europe; at the same time it shall be the constant object of my care to be sufficiently prepared against any event which may affect the honour, safety, or interest, of my kingdoms.

"Gentlemen of the House of Commons,

"I return you my hearty thanks for the supplies which you have granted me with so much cheerfulness; and I see, with pleasure, that, notwithstanding the ample provision which you have made for every branch of the public service, and the effectual relief and support which you have afforded to the East India Company, you have been able to make some progress in reducing the national debt.

"My Lords, and Gentlemen,

"The experience I have had of your attention to the public good, and of your attachment to me, convinces me that you will, in your several stations, use your utmost endeavours to assist me in promoting the happiness of my people. I have no other object but their welfare, and no other view but to employ the powers with which I am entrusted in maintaining the credit, reputation, and prosperity of my kingdoms."

The Parliament was then prorogued to the 7th of September; and afterwards to the 13th of January, 1774.

1774.

SEVENTH SESSION

OF THE

THIRTEENTH PARLIAMENT

OF

GREAT BRITAIN.

*The King's Speech on Opening the Session.**] January 13, 1774. The King

* "The recess of parliament was attended with nothing remarkable in affairs merely domestic. In general, a greater quiet seemed to take place in the minds of the people, than at any time since the commencement of the present parliament. The affairs of the East-India Company, in the preceding session, had considerably taken off their attention from those ob-

came to the House of Peers, and opened the Session with the following Speech to both Houses:

"My Lords, and Gentlemen,

"The unusual length of the last session of parliament made me desirous of giving

jects which were the principal sources of discontent and jealousy.

"Other matters concurred to this state of public quiet. Those who had so often petitioned for the dissolution of the present parliament, and many others, who, as little satisfied with some of its proceedings, had notwithstanding, from various causes, refrained from that mode of seeking relief, now consoled themselves with the reflection, that the period of its political existence approached; and were not without hopes, that as the time grew nearer, when the representatives would be returned to their constituents, and might expect, that their past conduct would become the measure of future support, they would accordingly provide for that event by some popular acts, which, if they did not immediately strike at the root of those measures that were deemed the most obnoxious, would at least have given general satisfaction in other respects. This was the more hoped for, not only as it was consonant to former experience, but that, as the heat and bitterness of contention would have time to wear away, a calmer season of reflection, and a more undisturbed view of things might, as opposition thought, naturally be expected.

"Administration had long carried every thing with so triumphant a sway, that no common event seemed capable of endangering its security. The opinion of their stability was increased even by the nature of the measures which had been adopted: the more unlikely they were to succeed, the more splendid the success of the undertaking appeared. The minds of the people, engaged by a succession of new objects, were no longer quite so powerfully affected by what had so strongly agitated them for some years past. This remission in the spirit of the people at large had given a facility for desertions of several from the opposition to the court, which was liberal in rewarding those seasonable conversions.

"There was no very material change in the state of parties, except that general decline of strength in the opposition. The Rockingham party still continued whole and unbroken, and invariably pursued its original line of public conduct. By this means, though constantly overpowered, it notwithstanding continued in some degree formidable. The same differences of opinion or affections, and the same occasional junction in others, still took place between them and that which was attached to the earl of Chatham.

"While affairs were in this dormant state at home, fresh matter unfortunately occurred, for the blowing up into a flame those embers of

you as long a recess as the public service would admit. I have therefore been glad to find myself under no necessity of calling you from your respective counties at an earlier season; and I doubt not but you are now met together in the best dis-

content and discord, which had too long been kept alive in America. The insignificant duty of 3*d.* per pound on tea, which had been left behind singly in the year 1770, when all the other articles enumerated in the same Bill for the purpose of raising a revenue had been repealed, was now doomed to be the fatal bone of contention between the mother country and her colonies.—The consequent discontents and disorders continued to prevail, in a greater or lesser degree, through all the old colonies on the continent. The same spirit pervaded the whole. Even those colonies which depended most upon the mother country for the consumption of their productions, entered into similar associations with the others; and nothing was to be heard of, but resolutions for the encouragement of their own manufactures, the consumption of home products, the discouragement of foreign articles, and the retrenchment of all superfluities. But still these were only symptoms of discontent, which had little effect on the trade to the colonies. That trade, which had somewhat stagnated on the late non-importation agreement, revived again, and even flourished. The article indeed of tea, was by the resolutions of several colonies strictly prohibited; but it still continued to be introduced both from England and other countries, and the duties were paid, though with some small appearance of exterior guard and caution.

"In the mean time, the governors of most of the colonies, and the people, were in a continual state of warfare. Assemblies were repeatedly called, and suddenly dissolved. Their time was employed, while sitting, in reiterating grievances, and framing remonstrances. Other matters sprung up, besides the tea duty and the custom-houses, to increase the general discontent. The late adopted measure, of the governors and judges being paid their salaries by the crown, and thereby, as they were removable at pleasure, rendered entirely dependent on that, and totally independent of the people, and provincial assemblies, however right or necessary in the present state of affairs, afforded an inexhaustible source of ill-humour and complaint.

"The greatest outrage, which was committed in this state of disorder, happened at Providence in Rhode-island, where his Majesty's armed schooner, the *Gaspee*, having been stationed to prevent the smuggling for which that place was notorious, the vigilance of the officer, who commanded the vessel, so enraged the people, that they boarded her at midnight, to the number of 200 armed men, and after wounding him, and forcing him and his people to go on shore, concluded this daring

position for applying yourselves to the dispatch of the public business.

"You will, I am persuaded, agree with me in regretting that the peace, so long expected, and so very desirable, is not yet effected between Russia and the Porte;

exploit by burning the schooner. Though a reward of 500*l.* together with a pardon, if claimed by an accomplice, was offered by proclamation for the discovering and apprehending any of the persons concerned in this atrocious act, no effectual discovery could be made.

"An odd incident happened, which served to revive, with double force, all the ill temper and animosity that had long subsisted between the executive part of government and the people in the province of Massachusetts's bay. This was the accidental discovery, and publication, of a number of confidential letters, which had been written during the course of the unhappy disputes with the mother country, by the then governor and deputy-governor of that colony, to persons in power and office in England. The letters contained a very unfavourable representation of the state of affairs, the temper and disposition of the people, and the views of their leaders, in that province; and tended to show, not only the necessity of the most coercive measures, but that even a very considerable change of the constitution, and system of government, was necessary, to secure the obedience of the colony.

"These letters indeed were in part confidential and private; but the people of the colony insisted, that they were evidently intended to influence the conduct of government, and must therefore be shewn to such persons as had an interest in preserving their privileges. Upon the death of a gentleman in whose possession these letters then happened, they by some means, which are not known, fell into the hands of the agent for the colony of Massachusetts's bay, who immediately transmitted them to the assembly of that province, which was then sitting at Boston. The indignation and animosity which these letters excited on the one side, and the confusion on the other, neither need nor admit of description.

"After several violent resolutions in the house of representatives, the letters were presented to the council, under the strictest injunction from the representatives, that the persons, who were to shew them, should not by any means suffer them, even for a moment, out of their own immediate hands. This affront to the governor was adopted by the council; and, upon his requiring to examine the letters that were attributed to him, thereby to be enabled, either to acknowledge them, if genuine, or to reprobate them if spurious, that board, under the pretence of this restriction, refused to deliver them into his hands; but sent a committee to open them before him, that he might examine the hand-writing. To this indignity he was obliged to submit, as well as to

but it is with real satisfaction I can repeat, that other foreign powers continue still to have the same pacific dispositions with myself. I can have no other wish than to see the general tranquillity restored, for the establishment and subsequent pre-

the mortification of acknowledging the signature.

"Such a new source of discord was not wanting in that colony. The house of assembly passed a petition and remonstrance to his majesty, in which they charged their governor and lieutenant-governor with being betrayers of their trusts, and of the people they governed; of giving private, partial, and false information; declared them enemies to the colony, and prayed for justice against them, and for their speedy removal from their places. So wide was the discontent, and so weak the powers of government in that assembly, that these charges, with many others, were carried through by a majority of 82 to 12.

"As we have just observed, the article of tea continued, notwithstanding the strong resolutions of the colonists, to be still imported into America; yet by the advantages which foreigners had in the sale of the low-priced teas, as well as the general odium attending the British teas, which, as bearing a parliamentary duty, were considered as instruments of slavery, the East India Company was thought to suffer much by the dispute with the colonies.

"Thus circumstanced, the minister in the last session, as some apparent consolation to that Company, for the strong measures which were then pursued against it, by government, brought in a Bill, by which they were enabled to export their teas, duty free, to all places whatsoever. In consequence of this measure, the Company departed in some degree from its established mode, of disposing of its teas by public sales to the merchants and dealers, and adopted the new system, of becoming its own exporter and factor. Several ships were accordingly freighted with teas for the different colonies by the Company, where it also appointed agents for the disposal of that commodity.

"The success of this scheme, and the utility to be derived from it, if it did succeed, were at the time much questioned: some active members in that Company, and one gentleman of great consideration amongst them, remonstrated against it, as rather calculated for the establishment of the revenue law in America, than as a favour or service to the Company. It is true, that they had then about seventeen millions of pounds of tea in their warehouses; but though this appeared an immense quantity to those who were not versed in the state of the trade, it was said, in reality, to be only equal to about two years usual consumption, and it was always intended to have a year's stock in hand.

"It appears that the Company was not itself quite satisfied as to the utility of this measure,

servation of which no endeavours of mine, consistent with the honour of my crown, and the interests of my people, shall ever be wanting.

“ In this state of foreign affairs you will have full leisure to attend to the improve-

and accordingly consulted some of the most eminent persons in the tea trade upon the subject. By some of the most intelligent of these it was represented, as the wildest scheme that could be imagined, and the most remote from affording the relief which they wanted. That even supposing it attended with all the success of which it was possibly capable, the returns would be too slow and too precarious, to supply in any degree the Company's present exigencies in point of cash; that on the other hand, it would be offering the greatest injury to the merchants, who were their established and never failing customers; who purchased their teas at all risks, and paid vast sums of money at stated times independent of them. Certain measures were also proposed, relative to the holding of two public sales within given distances of time, by which the Company would not only dispose of all its teas, but would receive, as they supposed, by the first payment, at the end only of five months, no less than 1,200,000*l.* in cash: a sum so considerable, and to be paid in so short a time, that it would probably enable them to refrain from the fatal loan, which they were negotiating with the public. The first measure, being a favourite with government, was adopted, notwithstanding these reasons and proposals.

“ If such were the opinions formed upon this scheme at home, it was universally considered in the colonies, as calculated merely to circumvent them into a compliance with the revenue law, and thereby open the door to an unlimited taxation. For it was easily seen, that if the tea was once landed and in the custody of the consignees, no associations, nor other measures, would be sufficient to prevent its sale and consumption; and nobody could pretend to imagine, that when taxation was established in one instance, it would restrain itself in others. Besides that all the dealers, both legal and clandestine, who as tea is an article of such general consumption in America, were extremely powerful, saw their trade taken at once out of their hands. They supposed that it would all fall into the hands of the Company's consignees, to whom they must become in a great measure dependent, if they could hope to trade at all. The East India Company by the late regulations was brought entirely under the direction of government. The consignees were of course such as favoured administration, and for that reason the most unpopular people in America. Particularly at Boston, they were of the family and nearest connections of those gentlemen, whose letters as we have observed, had at that time kindled such prodigious heat and animosities among the

ment of our internal and domestic situation; and to the prosecution of measures more immediately respecting the preservation and advancement of the revenue and commerce of the kingdom. Among the objects which, in this view, will come

people. It was at an unlucky time that they thought they saw a monopoly formed in favour of the most obnoxious persons, and that too for the purpose of confirming an odious tax. The same spirit seemed to run like wild fire throughout the colonies, and without any apparent previous concert, it was every where determined to prevent the landing of the teas at all events.

“ At the same time the East India Company became so exceedingly odious to the people, that a mere opposition to her interests, abstracted from all other causes, would have embarrassed any measure that was undertaken in her favour. The colonists said, that she was quitting her usual line of conduct, and wantonly becoming the instrument of giving efficacy to a law which they detested: thereby involving them, as they affirmed, in the present dangerous dilemma, either of submission to the establishment of a precedent which they deemed fatal to their liberties, or of bringing matters to a crisis which they dreaded, by adopting the only means that seemed left to prevent its execution.

“ As the time approached when the arrival of the tea ships for the execution of the new plan was expected, the people assembled at different places in great bodies, and began to take such measures as seemed most effectual to prevent the landing of their cargoes. The tea consignees, who had been appointed by the India Company, were obliged in most places (and in some at the peril of property, if not of life) to relinquish their appointments and to enter into public engagements not to act in that capacity. Committees were appointed by the people in different towns and provinces, whom they armed with such power as they supposed themselves enabled to bestow. They were authorized to inspect merchants' books, to propose tests, to punish those whom they considered as contumacious, by the dangerous proscription of declaring them enemies to their country, and of assembling the people when they thought necessary. In a word, their powers were as indefinite, as the authority under which they acted.

“ In the tumultuous assemblies which were frequently held upon this occasion, numberless resolutions were passed, extremely derogatory with respect to the authority of the supreme legislature. Inflammatory hand-bills, and other seditious papers were continually published; nor were the conductors of news-papers, nor the writers of various pamphlets, much more guarded in their conduct, or temperate in their manner. Even at Philadelphia, which had been so long celebrated, for the excellency of its police and government, and the temperate manners of its inhabitants, printed pa-

under your consideration, none can better deserve your attention than the State of the Gold Coin, which I must recommend to you in a more particular manner, as well on account of its very high importance, as of the peculiar advantages which the present time affords for executing, with success, such measures as you may find it expedient to adopt with respect to this great national concern. The degree of diminution which that coin had actually suffered, and the very rapid progress which the mischief was daily making, were truly alarming: it is with much satisfaction that I have seen the evil in a great measure checked by the regulations made in the last session of parliament. I trust, however, that you will not stop here, nor think that you have discharged your duty, either to your country or your fellow subjects, without using your best endeavours for putting the gold coin upon such a footing as may not only completely remove the present grievance, but render the credit and commerce of the kingdom

sufficiently secure from being again exposed to the like danger.

“Gentlemen of the House of Commons,

“I have ordered the proper Estimates for the current year to be laid before you; and rely on your readiness to grant me such supplies as shall be found requisite in the present situation of affairs.

“My Lords, and Gentlemen,

“The experience I have had of your past conduct leaves me no room to doubt either of your zeal or prudence. In your endeavours to promote the welfare of your country you will not suffer any parts of the public service to escape your attention, but, various and extensive as those are, you will be careful to select, for your immediate deliberation, such of them as shall appear to be most important; and you can propose no measures that will serve either to secure or advance the happiness and prosperity of my people, in which you may not always depend on my most hearty concurrence.”

pers were dispersed, warning the pilots on the river Delaware, not to conduct any of these tea ships into their harbour, which were only sent out for the purpose of enslaving and poisoning all the Americans; at the same time, giving them plainly to understand it was expected, that they would apply their knowledge of the river, under the colour of their profession, in such a manner, as would effectually secure their country from so imminent a danger. At New York, in a similar publication, those ships are said to be laden with the fetters which had been forged for them in Great Britain, and every vengeance is denounced against all persons, who dare in any manner contribute to the introduction of those chains. All the colonies seemed to have instantly united in this point.

“The town of Boston, which had been so long obnoxious to government, was the scene of the first outrage. Three ships laden with tea, having arrived in that port, the captains were terrified into a concession, that if they were permitted by the consignees, the board of customs, and the fort of Castle William, they would return with their cargoes to England. These promises could not be fulfilled; the consignees refused to discharge the captains from the obligations under which they were chartered for the delivery of their cargoes; the custom-house refused them a clearance for their return: and the governor to grant them a passport for clearing the fort.

“In this state, it was easily seen by the people of the town, that the ships lying so near, the teas would be landed by degrees, notwithstanding any guard they could keep, or measures taken to prevent it; and it was as well

known, that if they were landed, nothing could prevent their being disposed of, and thereby the purpose of establishing the monopoly and raising a revenue fulfilled. To prevent this dreaded consequence, a number of armed men, under the disguise of Mohawk Indians, boarded the ships, and in a few hours discharged their whole cargoes of tea into the sea, without doing any other damage, or offering any injury to the captains or crews. It was remarkable, that the government, civil power, garrison of Fort William, and armed ships in the harbour, were totally inactive upon this occasion.

“Some smaller quantities of tea met afterwards with a similar fate, at Boston, and a few other places; but in general the commissioners for the sale of that commodity, having been obliged to relinquish their employment, and no other persons daring to receive the cargoes which were consigned to them, the masters of the tea vessels from these circumstances, as well as from a knowledge of danger, and the determined resolution of the people, readily complied with the terms which were prescribed, of returning directly to England, without entangling themselves by any entry at the custom-houses. At New York it was indeed landed under the cannon of a man of war. But the government there were obliged to consent to its being locked up from use. In South Carolina some was thrown into the river as at Boston.

“Such was the issue of this unfortunate scheme. Some disposition to these disturbances was known pretty early; but as their utmost extent was still unknown, the meeting of parliament was deferred until after the holidays.” *Annual Register.*

The Lords' Address of Thanks.] His Majesty having retired, the following Address was moved by the earl of Northington and seconded by lord Willoughby de Broke; and agreed to without any debate:

"Most Gracious Sovereign,

"We, your Majesty's most dutiful and loyal subjects, the Lords spiritual and temporal, in parliament assembled, return your Majesty our humble thanks for your most gracious Speech from the throne.

"We are truly sensible of your Majesty's goodness in having granted us as long a recess from business as the public service would admit.

"We cannot but express our concern that the peace so long expected, and so very desirable, is not yet concluded between Russia and the Porte: it gives us, however, great satisfaction to hear of the continuance of the pacific dispositions of other foreign powers; and we humbly beg leave to return your Majesty our sincerest thanks for your Majesty's most gracious declaration, that no endeavours shall be wanting on your part, consistent with the honour of your crown, and the interests of your people, towards the establishment and subsequent preservation of the public tranquillity.

"Your Majesty may be assured, that we entertain the justest sense of your Majesty's paternal care in recommending to your parliament to make use of this season of tranquillity for improving the commerce and revenue of the kingdom, and in pointing out to us particularly the necessity, and great national advantage of putting the gold coin on such a footing, as may completely remove the present grievance, and secure the credit and commerce of the kingdom from being again exposed to the like danger: the wisdom and goodness of your Majesty on this occasion appear in so conspicuous a light, as cannot fail to fill our minds with the deepest gratitude, and raise in us the strongest desire of employing our utmost efforts for such salutary purposes.

"Animated with every sentiment of duty to your Majesty, and zeal for the public welfare, we will take under our most serious consideration the important objects to which your Majesty has directed our attention."

The King's Answer.] His Majesty returned this Answer:

"My Lords,

"I thank you for this loyal Address. Nothing can give me greater satisfaction than these assurances of your duty and affection. You may always depend upon my hearty concurrence in every measure that contributes to the improvement of commerce, and the true interest and prosperity of my people."

The Commons' Address of Thanks.] The Commons being returned to their House,

Lord *Guernsey* * moved, that an humble Address of thanks be presented to his Majesty for the great wisdom he had shewn in his most gracious Speech, in recommending the most serious attention to be paid to the Gold Coin Act, and for the particular regard he had expressed to secure general tranquillity, throughout his dominions. He said his Majesty had seen the most glorious sight that a monarch could behold; he alluded to the naval review; yet it had not filled him with any vain notions; that no rapacious thoughts filled his breast; that it was true, we kept up a powerful fleet and armament; but it was not to destroy or disturb the peace of weaker powers, but to maintain the honour and dignity of this nation; that his Majesty had most seriously recommended the state of the gold coin to be looked into, and he made no doubt but that every member would lend an assisting hand.

Mr. *St. John* rose to second the Address. He dwelt particularly on the very singular benefits the Gold Coin Act had produced by raising the exchange in our favour with every country in Europe, especially with Amsterdam; a circumstance not known for many years. He likewise expatiated largely on the speech from the throne, so far as it recommended the further consideration of so momentous a business to parliament, observing that, as a standard between man and man, as immediately and essentially connected with our trade and revenue, it was of the highest consequence to our trading and commercial interests.

Mr. *Prescott* said, that whatever high opinion those gentlemen might please to entertain of the Act in question, he by no means approved of its being brought in so late in the last session, nor of its injurious effects in relation to the bankers, who only held other people's cash, but were obliged

* Afterwards earl of Aylesford.

to pay it back at a different standard, at a very considerable loss.

Lord *North* replied, that since the ruinous state of the gold coin shewed the necessity there was to put it under some regulation, to prevent its increase, and the many consequences which might be justly dreaded from it, he was glad to find, that those who could best bear the loss, and were gainers by the situation which occasioned it, were those who felt it most severely; that if a tax had been laid to make good the deficiency, it would have put the nation at large to a very high expence, and opened a door for very gross impositions, as was the case in king William's time, when on a notice of a similar kind, relative to the silver coin, the nation had been put to an expence of two millions and a half; but that, in the present instance, the expence had fallen where it could be best borne; and that if any further regulations should become necessary, it would be trifling, and, therefore, he believed, be cheerfully made good by the public.

Mr. *Van* said, that Mr. Prescott had informed the House what a loss the bankers had sustained, but forgot to acquaint them, that immediately after the passing the Act last session, the bankers issued out orders, that they would take guineas that wanted 18*d.* which gave them an opportunity to dispose of the greatest part of their light gold. They then issued out a fresh order, that they could not take any guineas but at the standard allowed by the Bank; so that, in his humble opinion, the bankers had not suffered so much as the merchants.

The following Address was then agreed to:

“Most Gracious Sovereign,

“We, your Majesty's most dutiful and loyal subjects, the Commons of Great Britain, in parliament assembled, return your Majesty our most humble thanks, for your Majesty's most gracious Speech from the throne.

“Permit us, Sir, to assure your Majesty, that we sincerely regret that the peace so long expected, and so much desired, is not yet effected, between Russia and the Porte; but, at the same time, we beg leave to express the satisfaction we feel, in learning that other foreign powers continue still to have the same pacific dispositions with your Majesty: we acknowledge, with the utmost gratitude, the assurance which your Majesty has been pleased to

repeat to us, that you have no other wish than to see the general tranquillity restored and preserved, consistently with the honour of your crown, and the interests of your people; and we consider this gracious declaration of your Majesty as a fresh instance of your Majesty's paternal care for the welfare of your subjects, and of your generous concern for the happiness of mankind.

“We are truly sensible that it is our duty, as it shall be our care, to employ the leisure which the state of foreign affairs allows us, in attending to our internal and domestic situation: and we cannot but acknowledge your Majesty's great wisdom, in recommending and pointing out to our serious consideration the state of the gold coin of this kingdom, as well on account of its very extensive importance, as of the peculiar advantages which the present time affords, for conducting and executing with success any measures touching this great national object: we saw, with the deepest concern, the difficulties and distress in which the nation was on the point of being involved, by the very alarming degree of diminution which this coin had actually suffered, before the evil was checked by the regulations made in the last session of parliament; and we beg leave to assure your Majesty, that, impressed with a just sense of our duty to our country and our fellow subjects, we will exert our best endeavours to accomplish the great work of putting the gold coin upon such a footing, as may not only completely remove the present grievance, but as far as the nature of the case will admit, render the credit and commerce of the kingdom secure from being again exposed to the like danger.

“Your faithful Commons will, with the utmost cheerfulness, grant to your Majesty such supplies as shall be found necessary in the present situation of affairs: and your Majesty may be assured, that, animated by your recommendation, and excited by your example, we will apply ourselves with the utmost zeal and diligence to promote the welfare of our country; and that we will not fail to direct our attention to such parts of the public service as appear to us most important; having a perfect confidence, that whatever measures we may propose, that will serve either to secure or advance the happiness and prosperity of your people, will always meet with your Majesty's gracious approbation and concurrence.”

The King's Answer.] His Majesty returned this Answer:

"Gentlemen,

"I thank you for this very loyal and dutiful Address. I see with the highest satisfaction the continuance of your affection to me, and of your zeal for the public service; you may rest assured, that it is the invincible object and constant care of my life to promote the happiness, and to deserve the confidence of my people."

Debate in the Commons on the Navy Estimates.] January 21. The House having resolved itself into a Committee of Supply,

Mr. *Buller* moved, "That 20,000 men be employed for the sea service for the year 1774, including 4,354 marines; and that 4*l.* per man per month be allowed for their maintenance, including ordnance for sea service." He said he was sorry to ask for so large a supply; but it might be depended upon, that next year the demand would be lessened, as the fleet now in the East Indies, consisting of six ships of the line, would be home by Christmas, and be discharged; we should, therefore, not want so large a number of seamen, and consequently a smaller supply would do.

Mr. *Sawbridge* said, that the minister every year told us, that the demands of the next year would be much smaller; but he did not see that we could put any dependance in what he said, for the supply asked for this year, was the same as the last, and double what any former peace required; that when we were last war driving every thing before us, and had become the terror of the whole world, we made a disadvantageous peace, and the reasons alleged for it were, that we were not able to bear the expence of a war, yet we had ever since maintained that disgraceful peace with a war establishment, and therefore he should not give his assent to so large a demand.

Lord *North* said, that though the hon. gentleman had said no dependance was to be put in what he said, yet he would venture to affirm, that no man had the interest of his country more at heart; that it was not his desire to maintain 20,000 if 10,000 would do; that he was very averse to ask for large supplies, but we could not regulate our expences by any former peace; that the fleet which we kept in the East Indies was a chief reason for our annual demand being so

[VOL. XVII.]

great, as provisions were much dearer there than any where else; but there was a great difference between our establishment now and in time of war; that at the conclusion of the last war 16,000 seamen were thought necessary to be the peace establishment; that the alarm in 1771 had occasioned us to add 4,000 more; but he was in hopes the fleet from the East Indies would be home by Christmas, when 3,000 seamen would be discharged; and he made no doubt but 17,000 would be sufficient for the next year; that at the time of the alarm in 1771, our fleet was found to be in a ruinous state, and very little timber in our dock-yards; but now he flattered himself the navy was on a respectable footing, and by Christmas next there would be 3 years stock of timber in each dock-yard; that we should now have only to keep up the stock, which would not require so large a sum annually as the last three years.

Mr. *Dowdeswell* said, that he hoped not to be considered as an enemy to the navy, if he agreed in thinking the establishment too much for a profound peace; and as his Majesty had assured us that other powers were very pacific, and it should be his aim to preserve a general tranquillity, he saw no reason why the establishment should be more now than at the conclusion of the war; but the noble lord had told us, that a large sum of money had been expended to repair the navy, which was in a terrible condition in 1771; that he should be glad to be informed how the supplies from 1763 to 1771 had been expended, that the navy was suffered to rot; that either the minister had not demanded sufficient, or misapplied what was granted.

Lord *North* said, that he was in administration but three years out of the eight, and therefore was not obliged to answer for the conduct of others; yet he would be bold to say, that the hurry in which ships were built at the conclusion of the last war, when we could not get dry timber, had been the means of their rotting in seven years, when they ought to have lasted 15; that at the alarm in 1771, when we were so scarce of timber, we had been obliged to contract with the merchants for several ships, all of which would be launched this year, and then our own docks would be able to supply us; that the money which had been expended on the navy was not merely to repair, but to restore it.

Mr. *Pulteney* said, as the noble lord had declared, that when the East India

[3 P]

fleet arrived there would be a reduction of 3,000 seamen, he hoped they would be discharged from the 17,000, and that next year 14 thousand would be thought sufficient.

Lord *North* could not promise it should be reduced lower than 17,000, and if they were capable of that, he thought it was doing a great deal.

Mr. *T. Townshend* said, that it might be thought trifling in him to contend for a single thousand, but he should be glad some gentleman of the navy would inform him the reason why 17,000 must be maintained, when, by the noble lord's account, 16,000 were thought sufficient at the conclusion of the late war.

Mr. *Dowdeswell* said, that he left town last year two or three days before the session ended, but reading the King's Speech in the country, he was surprised at the following words, "I am glad to find you have in some measure been able to reduce the National Debt." He said he did not recollect that any of the 3 per cents, or other funds, had been paid off, or that any of the navy bills had been discharged; the only thing he knew of was 1,800,000*l.* exchequer bills paid off, but 1,800,000*l.* more he understood were borrowed; that if any thing had been paid off, it was more than he recollected; that though the land tax was a shilling in the pound more than in any former peace, it did not raise a supply of more than two millions clear of all deductions, which expence was annually laid out on the navy, so that if the flame of war should break out we should be in a bad state to defend ourselves, as all our land tax was expended on the navy only, and our credit was lower than ever, as appeared by the funds, for in Mr. Grenville's time, the 3 per cents were 97, and now they were but 86, so that if any saving could be made it was highly necessary.

Lord *North* replied, that he agreed with the right hon. gentleman, that any saving that could be made was necessary; that the demands hitherto had been so great, that he asked them with reluctance; that it was true no part of the public funds had been discharged; but the right hon. gentleman was wrong in his account of exchequer bills, as 1,800,000*l.* had been paid off, and only a million borrowed, which made a difference of 800,000*l.* 300,000*l.* of which had been applied to the use of the navy, and the other 500,000*l.* to the discharge of the national debt, which, in his humble opinion, was sufficient

to justify that part in his Majesty's Speech which had been alluded to. That, in answer to Mr. Townshend, why 17,000 men should be maintained when 16,000 were enough, he hoped the following reasons would be thought sufficient: that, during the Turkish war, the merchants trading there had desired to have two frigates to protect them, one of which had been recalled; but affairs were in so deplorable a state there, that he verily believed it must be sent back again; that the year before last we were obliged to send two sloops to Falkland's island, but he had endeavoured to lessen the expence by recalling one; that the fleet which had been obliged to be kept in the East Indies, were all extra services, which required more strength than was foreseen at the conclusion of the war; but though the right hon. gentleman had said we were in a deplorable condition to go to war, he would take upon him to say that we never had so respectable a fleet as at present; for we had now 70 ships of the line in good repair, and 12 more would be launched in the course of the year, which would make the number 82; a fleet which no other nation could boast of; but, perhaps, some gentlemen would say it was far too great; yet he would venture to affirm, that should a war break out, we should have occasion for our utmost force, as we should have to combat France and Spain.

The Resolutions were then agreed to.

Debate in the Commons on the Army Estimates.] January 26. The House went into a Committee of Supply. Lord Barrington moved, that 18,024 men be employed for guards and garrisons in Great Britain, Jersey, and Guernsey, for the year 1774, and 15,000 in Minorca, Gibraltar, the ceded islands, and North America, during the same period; and to make good the charges of the same, including the half-pay to officers.

Sir Charles Cocks moved, that 271,000*l.* including an expence of several enumerated articles, amounting to upwards of 26,000*l.* be the charge of the Ordnance for 1774.—Lord Barrington was glad to inform the House, that the expences of the army this year were not so much as the last by 1,004*l.* The estimates for the ordnance greatly exceeded, however, any before granted, which sir C. Cocks explained by the number of ordnance stores that had been expended on the shipping, repairs done to the foundery at Woolwich,

the fire in the Tower, great demands from Gibraltar, &c.—The House at this time was in great confusion, upon which

Mr. *Sawbridge* said, he was astonished to see the House so inattentive, when millions were voting away, for—God knew what!

Mr. *T. Townshend* was sorry to see every year our demands increase; that the peace establishment for seamen was increased from 16 to 17,000, and he thought some stop should be put to such proceedings; that Mr. Grenville, while in administration, had made it his business to enquire what those supplies were for, and if any were superfluous, to deny them; but we, as the hon. gentleman who spoke last had said, were always inattentive at the time we were granting supplies, without ever examining what they were for; that great sums were annually granted for protecting what we called achievements gained in the last war, and which were of no service to us: a parcel of forts, two or three hundred miles distant from each other, scarcely able to defend themselves against the Indians, and of no manner of importance.

Mr. *Van* said, that great sums were likewise expended to protect the Bostonians, &c. who by their conduct did not deserve protection; that they were numerous enough to defend themselves against an enemy, but not strong enough to rebel against us.

Mr. *Dowdeswell* spoke much in favour of the administration of Mr. Pelham; he said, that our keeping up a large armament now was no stroke of good policy; that at the commencement of the last war there was not the force we now had, yet we proved successful; and he would venture to prophesy, that let a war break out when it would, we should lose at first, let our strength be ever so great, as it lay in the breast of the enemy to attack which place they thought the weakest. He said we were in no situation to go to war, public credit was very low; that Mr. Pelham did not load the subjects with taxes on the eve of a war, but on the contrary reduced the interest of the national debt one per cent. and concluded with saying, he thought we should soon have more debt than the state would ever be able to pay.

The Resolutions were agreed to.

Debate in the Commons on Mr. Roberts's Petition against the Return of Mr. Alder-

man Bull for the City of London.] Jan. 26. Mr. Alderman *Hopkins* presented a Petition from John Roberts, esq., complaining, that at the late election of a citizen to serve in parliament for the city of London, in which he and the right hon. Frederic Bull, lord mayor of the said city, were candidates, the sheriffs admitted several persons to poll for the lord mayor, who had no right to vote in the said election, whereby, and by several illegal practices, and other undue means and proceedings, a pretended majority had been procured in favour of the lord mayor to his prejudice, who otherwise had a clear majority of legal votes, and ought to have been elected and returned to serve as member for the city; and praying the House to take it into consideration, and grant the petitioner relief. He introduced the Petition nearly in words to this effect:—I rise to move for leave to present a Petition from John Roberts, esq.; complaining of an undue election and return for a member to serve in parliament for the city of London. That gentleman, however ambitious he may be of a seat in this hon. House, would have hardly troubled you on this occasion, merely on his own account; but, thinking it his duty to obey the wishes of his constituents, and to preserve the rights of 2,481 livery-men, who have given him their suffrages, he means to preserve from violation that inestimable blessing, the freedom of election; I therefore move, that this Petition be taken into consideration on the 21st of February.

Mr. Alderman *Bull* (lord mayor). Mr. Speaker; I am sorry to find the House is to have any trouble on my account. Notwithstanding it was said there would be a petition, conscious that there was not the slightest foundation for it, I did not expect that any would have been presented. I can declare, with the utmost truth, I have used no unfair methods, nor exerted any undue influence, to succeed in my election. I owe the hon. seat I have in this House solely to the favourable opinion of my constituents and fellow citizens, the livery of London. The gentlemen who interested themselves in my favour well knew, that I did not wish for a seat, even in this great council of the nation, if it could not be obtained without a violation of the first principles of the constitution, or injustice to any individual. I am therefore ready to answer every objection, and perfectly easy about the

event, being satisfied that Mr. Roberts and myself will have equal justice rendered to us by this hon. House.

Mr. *Sawbridge*. I desire that the Act of the 11th of George 1, for regulating the elections of members to serve in parliament for the city of London, may be read (the Act was accordingly read). The design of this Act was evidently intended to prevent the great expence and long delays which controverted elections in that city might occasion, where the electors are so very numerous. The right of final decision is there vested in the returning officers; nor can I think the House have a right to interfere, without a manifest breach of that Act, unless it appears that the sheriffs have, in the first instance, failed to comply with the terms of it. Mr. Roberts, when the majority on the poll was against him, demanded a scrutiny, which the sheriffs, conscious of their uprightness, very readily granted; but Mr. Roberts, before the scrutiny was finished, declined carrying it on, which, to all intents and purposes, in my opinion, precludes him from any claim to the interposition of this House. It was the general wish of every friend to the freedom of election in the city of London, that Mr. Roberts might go on with his scrutiny; because then it would have most incontestibly appeared, that Mr. Roberts could have no pretensions to a seat in this House, the majority of the livery of London being clearly against him. This Petition therefore can only create trouble, and therefore I am against its going before the committee.

Mr. *Charles Fox*. I am not at all surprized that the hon. gentleman should imagine that the House have no right to interfere on the present occasion, for I can easily conceive the reasons which induce him to be of that opinion, as he imagines it has relinquished all its power by the late Act for regulating controverted elections. He is, however, too late in his objection, as it does not now rest with us to refuse to refer the Petition, it being once received. I do not at present see the hon. gentleman who last year moved to make this Act perpetual. I sincerely desire that it may be again agitated, as I hope to be one who shall heartily join in expressing the fullest disapprobation of it, in order that the House may again recover that inherent right, which is at present vested in a body, I may say, totally unconnected with it, and who in disfranchising the borough of

Shoreham have already abused their power.

Mr. *T. Townshend*. I cannot sit silent, and hear an act of the legislature spoken of in such reprehensible and indecent terms. The part of the House the hon. gentleman now sits in was formerly occupied by those appointed to determine undue elections. I dare say he is very well qualified for an election-manager: we can hardly doubt of his acquired or hereditary talents for such an employment. However I might have differed with the hon. gentleman (Mr. Grenville) in political sentiments, to whom we are indebted for this very salutary Act, I had always the highest veneration for his integrity and great abilities; nor can there be a stronger instance of the great utility of the Act, than the sense entertained of it by the gentlemen whose rights are now to be determined by it. The imputation thrown out on the committee that determined the Shoreham election is by no means just; or, if it had, the abuse of a power by no means proves that it was improper to delegate it: besides, the act of disfranchisement cannot, with any degree of justice, be laid to the committee, when it is recollected, that it was the solemn act of the whole legislature.

Mr. *Rigby*. Though it was the act of the legislature, the grounds on which it was framed originated with the committee; nor can the annals of parliament furnish another instance of such an indiscriminate punishment. If gentlemen wish by a side glance to cut off what they term the rotten part of the constitution, would it not be more fair to declare themselves openly? For what will be the consequence? Why, if any instance of bribery be proved, no more is required than to procure an act of disfranchisement, and the business is done. The evil will not stop here, but will extend to burgage tenures, and even to cities. Thus, if the freemen of Worcester should be proved guilty of bribery, as you have reason to believe from the tenor of the Petition now before the House they may, that city may meet with the same fate with that of the borough of Shoreham; and probably, in the general rage for disfranchising, the city of London itself may not escape.

Colonel *Onslow*. The hon. gentleman (Mr. Sawbridge) has informed us, that Mr. Roberts demanded a scrutiny, and that he declined carrying it on; but he forgot to tell us the reason why he de-

clined it. Mr. Roberts, being himself unacquainted with the city laws, demanded counsel, that justice might be done him in the course of the scrutiny. This reasonable demand, contrary to the usage of the city of London, and unprecedented in the general conduct of elections, was denied him; and therefore he chose rather to have recourse to the impartiality of a parliamentary scrutiny, than to trust himself in the hands of such partial scrutinizers. And no man, surely, can have a juster claim to prefer a petition, and to have it fairly heard.

Sir *Joseph Mawbey*. The hon. gentleman who has now told the House that Mr. Roberts was refused counsel, appears to have been misinformed. Mr. Roberts began his scrutiny without counsel, and did not give notice to the lord mayor of his intention until a day or two before the sheriffs were obliged to make their return of a member. By this artful method of demanding counsel at such a time, it was thought, when no other hope was left, to have prolonged the time, and to have defeated the election by protracting the return. He can therefore have no right to petition on this ground.

The motion was then agreed to.

Feb. 28. The Speaker informed the House, that he had received a letter from Mr. Roberts, acquainting him that he desired to withdraw his petition.

Mr. Alderman *Hopkins* then made an apology for the trouble he had given the House on Mr. Roberts's account; he said, he was averse, from the first, to any petition being presented, as he was confident the present sitting member was a gentleman of such honour, that he would not make use of any unfair means to gain a seat; that he could wish the lord mayor was present, as he was sure he would entirely acquit him of any partiality in the business; and he wished to acquaint the House, that he only presented the petition as a member, by the desire of Mr. Roberts, who, he said, had not acquainted him with any intention of withdrawing it. He concluded, wishing the lord mayor health and prosperity to enjoy his seat for life.

The Petition was then withdrawn.

*Proceedings in the Lords on the Question of Literary Property.** February 4.

* "The House of Lords this session, in its judicial capacity, determined the great ques-

The order of the day being read, for hearing counsel in the cause wherein Alexander Donaldson and John Donaldson are appellants, and Thomas Beckett and others are respondents; and for the judges to attend; counsel were accordingly called in;

Mr. Attorney General *Thurlow* opened as counsel for the appellants. He first entered into a minute investigation of the idea inculcated by what is called a publication; he then dwelt much upon the sense of the word 'property,' defining it philosophically, and in the separate lights of being corporeal and spiritual; the term Literary Property, he in a manner laughed at, as signifying nothing but what was of too abstruse and chimerical a nature to be defined. The booksellers, he observed, (exemplifying his observations by several cases) had not, till lately, ever concerned themselves about authors, but had generally confined the substance of their prayers to the legislature, to the security of their own property; nor would they probably have, of late years, introduced the authors as parties in their claims to the common law right of exclusively multiplying copies, had not they found it necessary to give a colourable face to their monopoly. He was very diffusive upon grants, charters, licences, and patents from the crown, both to corporate bodies and individuals, tracing them far back, and asserting, that they all specifically proved, that, if there had been any inherent right of exclusively multiplying copies, such instances of exerting the royal prerogative would have been unnecessary. He particularly adverted to the statute of the 8th of queen Anne, maintaining that it was not merely an accumulative act declaratory of the common law, and giving additional penalties, but that it was a new law to give learned men a property which they had not before, and that it was an incontrovertible proof that there previously existed no common law right, as contended for by the respondents. He cited many cases to prove his arguments; some before the 8th of queen Anne, and others immediately upon that statute, generally inferring that the grand question touching the common law right had never been decisively determined by any chancellor.

He concluded his speech with a compliment to his learned coadjutor, and a hope, that as the lords of session in Scotland had freed that country from a mono-

tion of literary property, which was brought before them by an appeal from a decree in

poly which took its rise from the chimerical idea of the actuality of literary property, their lordships, whom he addressed, would likewise, by a decree of a similar nature, rescue the cause of literature and authorship from the hands of a few mono-

chancery. The present age, in this country, favourable to every species of meritorious and beneficial industry, has been peculiarly advantageous to literary ability. In former times, when the circulation of learned productions was confined, and the number of readers small, genius often lay buried in obscurity, and merit was not sufficient, without a fortunate coincidence of circumstances, to ensure protection and support: the most successful adventurers could receive no other recompence than the patronage of the great, and at best could only enjoy a precarious and irksome dependence. Since the art of printing has rendered the multiplication of copies easy, and the progress of science and erudition has introduced a taste for reading among numerous classes of people, authors have had it in their power to repay themselves for their labours, without the humiliating idea of receiving a donative. But the degree in which they were to reap this benefit, depended on the security and the duration of their literary property. The protection afforded by the laws of the country to this species of labour, is not only important to the author, but also to the public; for literary works, like all others, will be undertaken and pursued with greater spirit, when, to the motives of public utility and fame, is added the inducement of private emolument.

"The occasion which brought this question before the public was as follows: certain booksellers had supposed, that an author possessed by common law an exclusive right for ever to the publication of his own works, and consequently could transfer that right. On this supposition, some of them had purchased copyrights, and had prosecuted others who published the same books, as invaders of an exclusive right which they had acquired by purchase. A decree of chancery had been obtained in favour of Mr. Becket, a prosecutor on these grounds, against Messrs. Donaldsons, as pirates, in having published a work belonging to Mr. Becket. The defendants had appealed to the House of Peers; and the question rested principally on three points: 1st, Whether the author of a book, or literary composition, has a common law right to the sole and exclusive publication of such book, or literary composition? 2nd, Whether an action for a violation of common-law right, will lie against those persons who publish the book or literary composition of an author without his consent? and, 3rd, How far the statute of the 8th of queen Anne affects the supposition of a common-law right? Under the 1st head, it was contended by the advocates of perpetual literary property, that this right was founded in the ge-

polizing booksellers, in whom the perquisites of other men's labours, the fruits of their inventions, and result of their ingenuity, were at present wholly centered.

When the Attorney General had finished, the counsel were desired to withdraw,

neral principle by which every man is entitled to the fruits of his own labour. Whoever by the exertion of his rational powers has produced an original work, appears to have a clear right to dispose of the identical work as he pleases; and any attempt to vary the disposition, seems an invasion of that right. The identity of a literary composition consists entirely in the sentiment and language: the same conceptions, clothed in the same words, must necessarily be the same composition; and whatever method be taken of exhibiting that composition to the ear or the eye of another, by recital, by writing, or by printing, in any number of copies, or at any period of time, it is always the identical work of the author which is so exhibited. On these grounds of natural justice it was contended, that common law respecting literary property was founded, and by that common law the right of an author or his assignee was perpetual. A statute of queen Anne had declared an author and his assigns to have a right to a work for fourteen years, and for fourteen years more if the author should so long live. Certain judges, among whom was lord Kaimes in the court of session, and Yates in London, denied that ever such a right existed at common law. This opinion they founded on the following allegations: that a literary composition is in the sole dominion of the author while it is in manuscript; the manuscript is the object only of his own labour, and is capable of a sole right of possession; but this is not the case with respect to his ideas. No possession can be taken, or any act of occupancy asserted, on mere ideas. If an author have a property in his ideas, it must be from the time when they occur to him; therefore, if another man should afterwards have the same ideas, he must not presume to publish them, because they were pre-occupied, and become private property. Lord Mansfield shewed the fallacy of the maxim, that nothing but corporeal substance can be an object of property; reputation, though no corporeal substance, was property, and a violation thereof was entitled to damages. Every man's ideas are doubtless his own, and not the less so because another person may have happened to fall into the same train of thinking with himself: but this is not the property which an author claims; it is a property in his literary composition, the identity of which consists in the same thoughts, ranged in the same order, and expressed in the same words. This illustrious judge conceived a common law right to the copy of his work to be vested in an author and his assigns originally, and still to exist, notwithstanding the

and the further hearing was adjourned until the 7th.

February 7. Counsel being called in,

Sir John Dalrymple was heard for the Appellants:

He laid down two preliminary observations: First; that the best and only method of discovering how the law stood in any abstruse case, was by adverting to an history of the law. Secondly, Sir John observed, That he combated the matter upon an exceeding advantageous ground; for it having been decided in favour of his clients by the lords of session in Scotland, ten lords to one, though it could not prepossess their lordships before whom he spake, yet it evinced that the appellants had more than a shadow of claim, had substantial justice on their side.

Sir John observed, That in Scotland the *jus gentium*, or laws and customs of other nations, were pleaded in the courts of that kingdom, and from a diligent search into the laws and customs of every nation, ancient or modern, the Scotch lawyers, when the question concerning literary property was lately agitated in that kingdom, found themselves justified in affirming that no such property ever existed or ever was claimed in any civilized nation, England excepted, under the canopy of heaven.

In conformity to the first preliminary observation, That the law in any abstruse case was best discovered by entering into a history of it, sir John proceeded to give an history of the law respecting literary works. This historic account he divided into three periods; from the invention of printing to the institution of the Stationers Company in queen Mary's reign; from the institution of the Stationers Company to the licensing act; and

statute of queen Anne. It was agreeable to the principles of right and wrong, convenience and policy, and therefore to the common law. The court of chancery, proceeding upon its conception of moral justice and general equity, had uniformly decreed that this, like every other species of property, was perpetual to the original acquirer, his heirs, assigns, or others to whom it might be transferred by gift, sale, or any other means of transmission. Lord Camden did not contest the conformity to natural justice of either lord Mansfield's principle or the chancery decrees, nor undertake to prove that there was any reason in the nature of literary productions for rendering the property of these less durable than that of other

from the licensing act to the statute of the 8th of queen Anne.

Printing, sir John said, was, when first discovered, deemed a mystery, like that of making sal ammoniac, or any other chymical preparation; the journeymen and apprentices were laid under severe injunctions not to lay open the principles of the art to the unskilful; as a manufacture of the kingdom it was therefore exercised.

Sir John then mentioned the several books printed previous to the institution of the Stationers Company; and from the silence respecting literary property during the whole of that period, from the right every printer exercised of printing any book he chose, sir John deduced a strong presumptive proof, that the common law recognized no such thing as literary property.

Sir John then stated the history of the institution of the Stationers Company. He said, it was instituted in the reign of Philip and Mary, princes who ruled with a despotic sway; that they, like every other despotic prince, wished to crush the liberty of the press; the booksellers, however, acquiesced in the Act, because such of them as were members of the Stationers Company were benefited by it. There were many curious regulations, sir John said, subsisting in this Company; he had read them all, and found the following three. "1. That no two persons should speak at once. 2. That every member should speak with his hat off. 3. That a member should speak seriously."

From such important regulations, the importance of the Company might be deduced; yet, during the whole of this period, from the invention of printing to the institution of the Stationers Company, not a suggestion about common law right to literary property was started; books were printed by licence or leave from the Sta-

fruits of labour, but confined himself to what he apprehended to be the written law of the land. The statute of queen Anne, he affirmed, took away any right at common-law for an author's multiplying copies exclusively for ever, if such right ever existed.

"The House of Peers concurred in his opinion, the decree was reversed, and thenceforth literary property depends on the statute of the 8th of queen Anne, which secures to the author or his assigns an exclusive property for 14 years, and 14 years after the expiration of that period if he so long live; but, on the expiration of the one or both of these terms, ordains the copy-right to be at an end." Bisset's George the Third.

tioners Company, and published "cum privilegio." Whilst, therefore, the members of the Stationers Company agreed amongst themselves, the charter granted to that company was a charter enacting a body of licensers, sued for on a principle of interest, and granted by the crown on a principle of policy. That books were published during all this time by privilege, or patent, was a notorious fact, for he could produce a list of many thus published, almost as long as his arm.

When the members of the Stationers Company however quarrelled (as it was natural to suppose they would) amongst themselves, then each talked of some favourite book as his property; that the public might be impressed with the consequential notion of the word, it was generally printed, said sir John, in letters as long as my finger. Those who plumed themselves upon being the owners of these works called themselves proprietors, and the works were copy right.

Thus dismissing the Stationers Company, with several other severe animadversions, sir John touched upon the decrees of the Star Chamber, which he observed were heinous exertions of unconstitutional power; yet none of them, respecting books, recognized any other right to vest in the author, or his assignees, than that created by patent.

Sir John then proceeded to examine the ordinances issued in the time of the Commonwealth, upon which he vented some humorous remarks. He said, he should mention a truth founded on the experience of ages; it was this; that men always took the very same methods to keep power, when they had obtained it, which they blamed in others before they gained their point. Thus, argued he, the commonwealth-men abused the king and ministry for edicts laying restraints upon the press; and yet no sooner had they obtained the reins of government, than they caused ordinances to be issued prohibiting a book to be published that had not undergone state revision. But, though the press was ever an object both to legal and usurping princes, yet in no regulations respecting it was a common law right in books noticed in the most distant manner; yet had such right existed, we surely must have heard of it, particularly as some of the British princes were authors. James the 1st (added sir John humorously) took it into his head to turn poet; he employed his leisure hours, whilst in

Scotland, in translating the Psalms of David. His son published this work; yet so far was he from dreaming about a common law right, that he granted a patent for the printing it.

The statute of queen Anne sir John noticed, with respect to the title, the preamble, and some of the clauses contained therein. He observed, That it had been mentioned the word 'vest' was adopted in the title, and the word 'secured' was inserted in the body of the Act. This he thought was a distinction of the greatest propriety, for the Act was framed to give an author or his assignees a property in that which he had not before; it therefore vested something in him, and after having vested it, there was a provision made to secure it to the author.

With respect to the preamble of the Act, sir John took notice, that, admitting such a right as that claimed under the denomination of literary property, to have existed anterior to this statute, the preamble was couched in terms the most ridiculous. It runs thus, "Whereas divers persons have taken the liberty to print," &c. A curious expression, argued sir John, one man deprives another of his property, and the legislature calls this only taking a liberty! Can it be believed that British legislators will talk in this absurd strain? Might it not be with equal propriety said, that divers persons have taken the liberty to commit fraud, perjury, or theft? From the very phraseology of the preamble, sir John inferred, that one man printing a book, published by another, was in fact no more than taking a liberty not perhaps quite equitable, but against which, however, except by statute, no proviso was made.

Another clause in the Act furnished sir John with ample matter of discussion. The statute vested a property in the author for 14 years, "and no longer." Sir John asked, why the phrase "and no longer" was adopted? Admitting the respondents right in their notions about a common law property, a claim so founded must vest the property in the owner for a perpetuity: How then could this statute be called, as it is, 'An Act for the better encouragement of learning.' Was learning encouraged by depriving learned men of a property they had for a perpetuity, and vesting it in them for a term of years only? The supposition was absurd; and yet if the Act by some certain privileges not enjoyed before, did not encourage learning,

a statute of the legislature was suffered to be published with a direct falshood for its imprimatur. Upon the supposition of a common law right, the statute curtailed, instead of enlarging an author's privileges; it vested nothing in him but what he had before; it secured nothing to him but what he was previously secured in by the common law; and in the place of enjoying a property transmissible in perpetuity to his heirs, he enjoyed one for 14 years only.

Sir John then stated his notion of the statute in question, humorously thus: there is nothing, said he, an author or a printer detests so much as a minister. Now, if no common law right exists, the property must be vested by patent; but for an author to be eternally soliciting for patent after patent, would have too much the air of dependance on a great man: now, continued sir John, an author is foolish enough to think, that if a great man promises to grant him a patent, or any other favour, the great man should keep his word; and if he breaks his promise, the author is apt, said sir John bluntly, to think the great man a rogue. To save therefore an author from the pain of reiterated solicitations, this statute of queen Anne passed; it serves for an universal patent, and supercedes the necessity of an author's applying for particular ones. It passed in the reign of a Tory prince, under the influence of a Tory ministry; yet the statute is defensible, and lawyers would defend it upon different principles. The truth is, continued sir John, that lawyers, like parliaments, vary in their language. The style of the House of Commons, in my time, has varied; it is the same with courts; what at one time is prerogative, at another is necessity; proclamations are now out of fashion, yet I remember them in tolerable vogue; hence lawyers, as well as ministers, vary about; and according to the fashion of the times, will defend a thing upon the principles either of prerogative, property, or state necessity, or all together. Chief Justice Scroggs, at the head of the Whigs, would contend for liberty and property; judge Jefferies for prerogative; a prudent lawyer, for both liberty, property, and prerogative.

Sir John having thus combated the statute of queen Anne, made a variety of miscellaneous observations rather foreign to the point, but introduced seemingly to level a stroke of sarcastic humour. He said, that he was informed the counsel

[VOL. XVII.]

on the opposite side intended to prove that a copy right had been acknowledged by the testimony of several divines; but with deference to the church, he did not believe what they signed to be the truth. He said, that authors and booksellers seldom were men of family or fortune; it was therefore extremely difficult to find out their heirs ten years after their deaths. He said, that twelve or thirteen booksellers were hovering, like eagles over a carcase, about the remains of poor Thomson; but he hoped their lordships would protect those remains from such hungry vultures.

Sir John, after thus jocularly discoursing, thus returned to combat the subject upon more serious, as well as substantial grounds. He argued thus: the book about which the action is brought, was printed at Edinburgh; in Scotland there is no such thing as literary property; by the articles of Union, matters respecting traffic stand mutually upon the same footing; can, therefore, or cannot a man import into this kingdom, and here sell books printed in Scotland?

Sir John then talked about ideas. If I copy a manuscript, says he, and publish it, I am liable to a civil action; if I steal a book, to a criminal one; the one is simply taking ideas, the other a chattel. But, argues he, what property can a man have in ideas? whilst he keeps them to himself they are his own, when he publishes them they are his no longer. If I take water from the ocean it is mine, if I pour it back it is mine no longer. Besides, continues sir John, there are various methods of conveying ideas; by looks, at which the ladies are most expert. Now an ogle is a lady's own whilst in private, but if she ogles publicly they are every one's property. By gesture ideas are conveyed; Foote's, or any other person's puppet-shew continued his before public representation, but after that any one might imitate it. Prints and engravings were, when once made public, the property of every imitator. Hence in the case of some of Hogarth's prints, an Act passed vesting an exclusive right in his widow for a term of years. Besides all this, sir John contended, that a decision in favour of the appellants would benefit authors, promote trade, and increase the revenue. It would benefit authors because the old stock upon booksellers' hands becoming common, authors would be applied to for new works; hence trade as well as authorship would

[3 Q]

be served, and the revenue by consequence increased considerably.

Such are the substance of the most of sir John Dalrymple's arguments, sir John spoke for two hours and a half, and seemed to exhaust, in this one speech, all the knowledge, metaphysical, legal, chemical and political, he possesses. He passed the greatest encomiums on lord Hardwicke, mentioned a doubt of his lordship's upon the subject of literary property, and said, "that the doubts of one wise man contained more information than the dogmatic opinions of ten thousand weak blockheads.

Sir John computed the number of printers and booksellers in London to amount to thirty thousand, and dropped the following expression: when the lord mayor was parading from the House after some popular act about discharging the printers, I was in the city, and perceiving the mob not so numerous as might be expected, I enquired the reason, and was told that a printer had been hanged that day, and ten thousand of the brotherhood chose rather to attend that than the lord mayor's procession.

Feb. 8. Counsel being called in,

Mr. Solicitor General *Wedderburn* was heard for the Respondents:

He began his speech with complimenting the two counsel on the other side of the question; one of the learned pleaders, he observed, had entered into the argument with great ability, his definition of the word 'property' had been shrewd, metaphysical, and subtle; but he hoped to be able to convince their lordships, that ingenious as the definition of that word had been, it was nevertheless erroneous. Literary property had, by those who spoke before him, been said to be so abstruse and chimerical, that it was not possible to define it. The interpretation they had put upon the word 'property' was, that it implied something corporeal, tangible, and material. He begged leave to differ from this opinion, and to point out how common it was for terms to be misapplied as to their import. The word 'property' had, by the ablest writers, been called 'jus utendi, fruendi, disponendi;' it was therefore evident that any idea, although it was incorporeal in itself, yet if it promised future profit to the inventor of it, was a property. And the latter word had, through inaccuracy, been used, as de-

scribing that, over which a possessor held an absolute reign, dominion, or power of disposal. The subject matter might be immaterial, and yet liable to be appropriated. Property changed its nature with its place: in England, portions of land were private property; among the Arabs and Tartars no such idea prevailed, they looked upon cattle and chattels as the only private property. Among the Americans, in certain districts, land was considered as property, but not as the property of individuals; as the inhabitants lived upon the gains of hunting, a circumference of land, sufficient for them to hunt on, was considered as the general property of one tribe or nation. The lawyers' mode of describing property was exceedingly trite and familiar, they generally divided it into corporeal and incorporeal, and in the present case it had been said to commence by occupation, and to continue by possession. This was a narrow scale of argument. In the courts of law it was universally admitted that matters incorporeal were nevertheless matters of property, and the lawyers' division of it proved that matters not in occupancy or possession, were yet of value, and could be sold or given over, as in the cases of manors and advowsons, remainders, and reversions. They could be sold by assignment, and the mode of sale was by title. Possession was usually described as originating from two things, livery and grant. Under the latter title, in some degree, stood literary property; but it was not to be considered as originating from crown grants, for excepting the prerogative copies, the crown had no right, and in the first of those (the Bible) no farther right, than in that particular translation published in the reign of king James.

The Solicitor General observed, that every inventor had a right to the profit of his invention; and as he found that Grotius had not escaped the Attorney General's researches, he was much surprised that in his definition of property, the learned pleader had not hit upon a position which was directly in point. He then read an observation cited by Grotius as having been made by Paulus, a Roman lawyer, who declared, that one mode of acquiring property was invention, and that from the nature of things, he who made a matter was the owner of it. This he observed was a much more liberal construction of the word 'invention' than had been put on it by the other side,

who had taken it up in its vulgar acceptance, and only given it allusion to trifles, such as the finding shells on the seashore, &c. It had been contended, that the maker of an orrery was in the same predicament as an author, when he published. Such allusion came not to the point; the first sheet of an edition, as soon as it was given impression, in a manner loaded an author with the expences of a whole edition, and if that edition was 5,000 number, the author was not repaid for his labour and his hazard, till the last of the 5,000 was sold. The maker of an orrery was at no other trouble and charge, than the time, ingenuity and expence, spent in making one orrery; and when he had sold that one, he was amply paid. Orrery-making was an invention, and the inventor reaped the profit accruing from it. Writing a book was an invention, and some profit must accrue after publication: who should reap the benefit of it? Authors, he contended both from principles of natural justice, and the interest of society, had the best right to the profits accruing from a publication of their own ideas; and as it had been admitted on all hands that an author had an interest or property in his own manuscript, previous to publication; he desired to know who could have a greater claim to it afterwards. It was an author's dominion over his ideas that gave him his property in his manuscript originally, and nothing but a transfer of that dominion or right of disposal could take it away. It was absurd to imagine, that either a sale, a loan, or a gift of a book, carried with it an implied right of multiplying copies; so much paper and print were sold, lent, or given, and an unlimited perusal was warranted from such sale, loan or gift, but it could not be conceived that when 5s. were paid for a book, the seller meant to transfer a right of gaining 100l.; every man must feel to the contrary, and confess the absurdity of such an argument.

The Solicitor General produced a copy of the original grant of king James for printing some poems of his writing, which, excepting some royal stile in the beginning, he observed, ran in the ordinary phrase of an author's assignment of copy-right to a bookseller; nay, indeed it was more ample, for it not only transferred the right of the matter then published, but also transferred a right to every thing he should hereafter be pleased to write. Among other matters adverted to in this

speech, Ames's Typographical History was particularly noticed: the application of the printers in Prynne's time to suppress and call in the patents for printing and publishing the Bible, was mentioned; the applicants terming those patents a sanction for monopolizers, the matter was heard by counsel, when Prynne pleaded on one side of the question, and his answer turned on nine points, in one of which that celebrated lawyer declared, that the most serious and solid objection against the printers, was the inherent common law right for an author to multiply copies. This the Solicitor General said, was one strong proof that in the worst of time the *jus naturale* respecting literary property was not forgot. Licences in general, he observed, proved not that common law right did not inherently exist, but were the universal fetters of the press at the times in which authors were obliged to obtain them.—With regard to the statute of queen Anne, he was very willing to let that rest on the same grounds as the Attorney General had placed it last Friday, namely, that if it gave no right it took none away. But he could not help observing that it contained a positive clause to let the matter respecting a common law right, remain precisely in the state in which it was when that Act passed: and that the court of Chancery considered that such a right did exist, was evident from the several injunctions that court had granted since the enacting of the statute, which did not govern those injunctions, as it did not particularly specify how the court of Chancery were to act. He instanced the cases of Pope and Curl, Gwynne and Dr Shebbeare, and two law books, as proofs of what he asserted. He mentioned also the case of Dodsley v. Kinnersly, in 1761, before sir Thomas Clark, master of the rolls. The former prayed an injunction against the latter, for abstracting part of Dr. Johnson's *Rasselas*, and publishing such abstract in a magazine. The Solicitor General, after noticing the great ability of sir Thomas, declared that his opinion was the same respecting literary property, as that he had maintained; and after a variety of very ingenious remarks, he concluded his argument, invoking the Lords to sanctify the final determination of a question founded on natural justice, and the interest of society, by affirming the decree.

Mr. *Dunning* spoke also for the Respondents :

He began by observing that his learned leader had so ably considered the case, and so eloquently argued the point, that there remained little for him to offer, except some general observations on the question. He said it was to him the most extraordinary idea that ever he heard, that it should be admitted that an author had a property originally in his composition, and that the first moment he exercised his dominion over that property, and endeavoured to raise a profit from it, he lost it. Publication, he could not conceive, was of such a nature as to destroy that right to the matter published, which it was acknowledged an author had before it was published. It had been declared on the other side, that during the licensing act, and those reigns when the privileges were obtained, and Star Chamber decrees were so frequent, that the inherent right at common law appeared but dimly; this, he observed, was not to him any wonder, as during the period mentioned, nothing but injustice was seen openly. It reminded him, that while an act was passing for the preservation of cabbages and turnips, a man was exceedingly anxious to discover an act for the preservation of window curtains, and the reason he gave for this anxiety was, because he thought a window curtain full as deserving of preservation as either a cabbage or a turnip. Again, Addison and Dr. Swift had been said to have been the friends and advisers of ministers; till he was told the name of the minister who was so befriended and advised by Swift, he should decline entering upon that matter, but he was very sure that in Swift's time the ministry were not without their share of abuse. One part of the argument used for the appellants was, that it would benefit authors, if no exclusive right of multiplying copies existed: this was a very strange assertion, and it was very extraordinary that authors in general should think otherwise. It was customary for booksellers, as buyers, to buy as cheap as they could, and it was also customary for authors to sell as dear as they could; this could not be the case if the moment a book was published every man had a right to print it. Authors formerly, when there were few readers, might get but small prices for their labour; that however had not of late years been the case. Hume's *History of England*, and Dr. Robertson's

History of Scotland, had been amply paid for, and Hawkesworth's *Voyages* still more largely: how was this difference to be accounted for? not from any uncommon generosity in the booksellers; not from any superiority in point of merit in the books, but from the idea of a common law right prevailing, and from that idea being established by the determination of the court of King's-bench in the case of *Miller and Taylor*; for it was idle to contend that the subject of the present appeal was not exactly on the same grounds. The appellants wanted to sanctify the importation of Scotch books into England, in the same manner as the importation of Scotch cattle. The book on which the present cause was grounded, was written, indeed, by a Scotchman, but it was written in English, and originally printed in England. The appellants had invaded the legal purchaser, by printing a copy in Scotland, and offering it to sale in London; he hoped therefore, that their lordships would teach them that literary property was sacred, by affirming the decree.

February 9. The counsel being called in,

Mr. Attorney General *Thurlow* was heard in reply:

He first took notice of Mr. *Dunning's* insinuation, that Mr. Justice *Yeates*, although a very honest and a very able lawyer, had inclined to the side now argued for by the appellants, merely from being accustomed to plead it; and that from the difficulty of any person's seeing a question impartially, which he had long been habituated to view in only one light, the late Mr. Justice *Yeates* did not sufficiently divest himself of the advocate when he was determining as a judge. This he conceived to be a very unfair conclusion, and thought that no judge was to be supposed influenced by what he had argued as a counsel. He again went into a definition of what the law termed property, denying the positions which had been laid down by the Solicitor General respecting it, and declaring that the matter in question was not at all comparable to advowsons, remainders, or reversions. Property, he said, was in his idea of a double nature, either original or derivable; it must be in itself corporeal, or derive its name from something of a corporeal nature; thence its relation to occupancy and possession; but he meant not to say that pos-

session must originate from a grant of the king, when he declared that the law described it as arising either from livery or grant. Literary property could not be of either of these origins, and was to all intents and purposes indefinable. But he could not help expressing his amazement, that it should have been attempted to charge him with unfairly defining the meaning of invention, by citing the very passage from Grotius which he had first quoted, as immediately proving the meaning he had given it. He read the whole period, and appealed to his hearers whether he had not drawn a fair and defensible conclusion from it. With regard to the observation, that the inventor of an orrery was not at all to be compared to the inventor of a book, because he was paid for his labour when he had sold one orrery; there was not a more fallacious doctrine in the power of words. The maker of a time-piece, or an orrery, stood in the same, if not in a worse predicament, than an author. The bare invention of their machines, might cost them twenty of the most laborious years in their whole life; and the expence to the first inventors in procuring, preparing, and portioning the metals, and other component parts of their machines, was too infinite to bear even for a moment the supposition that the sale of the first orrery recompensed it. And yet no man would deny that after an orrery was sold, every mechanist had a right to make another after its model. Authors had certainly an interest in their manuscripts before publication, and they had a right to every advantage which could possibly accrue from first communicating their manuscript to the world; but having once done so, they lost all further claim. Publication was in his mind sale, and after a man had sold his right, it was absurd to contend that he had any claim upon the purchaser. The case recorded by Prynne fully confirmed him in the opinion he entertained. The printers were then urging an improper suit. The sole printing of Bibles had been granted by the crown, and such a use of the prerogative was very defensible and very proper. As to the doctrine that any man had a right to publish translations, and that therefore other versions of the Bible might be published, it was exceedingly absurd, supposing that a common law right did exist. Lord Bacon and several of the old learned writers, always gave their thoughts in Latin; surely if they had a right to their own ideas, it

would have been very hard for a translator to have published an English edition as soon as possible after their appearance in Latin; and more especially so, if the case could have happened at this day, as the English edition would have had the advantage greatly in point of profitable sale. In the case of Newton's *Milton*, the court of Chancery decreed generally; they did not, as had been observed on the other side, divide the author's text from the commentator's notes, and the reason is obvious, for no man would have purchased one without the other. It was true, he observed, that the statute of queen Anne had not either restricted or enlarged the power of the court of Chancery, respecting the mode of treating the question; but it was as true, that the court of Chancery had not only of itself always acted upon the principles of that statute, but that every prayer for an injunction had of late years been grounded upon it. The late lord Hardwicke had been declared to have been of opinion, that there did exist a common law right. Before lord Hardwicke's opinion was attempted to be positively pronounced, it was highly necessary, he presumed, to ascertain that he entertained any opinion relative to the matter. If one court's determination in favour of the common law rights, had given three guineas for such a work as Hawkesworth's *Voyages*, what would not a determination of the House of Lords give? Six guineas at least; so that the public would be materially injured if the monopoly contended for by the respondents was ratified and confirmed. That it was a monopoly tending to distress the public, injure literature, and contrary to every species of natural justice. After having argued near two hours, denying that the counsel on the other side had defeated his former positions, and endeavouring to produce new ones in support of his doctrine, he concluded with summing up the strongest parts of his argument, and hoping that their lordships would consider they were about to determine the law on a most important point, and wishing that they might pronounce in favour of the appellants.

The counsel were directed to withdraw.

And it being proposed, That the Judges be directed to deliver their Opinions upon the following Questions;

1. "Whether, at common law, an author of any book or literary composition, had the sole right of first printing and publishing the same for

sale, and might bring an action against any person who printed, published, and sold the same, without his consent?

2. "If the author had such right originally, did the law take it away upon his printing and publishing such book or literary composition, and might any person afterward reprint and sell, for his own benefit, such book or literary composition, against the will of the author?"

3. "If such action would have lain at common law, is it taken away by the statute of 8th Anne: and is an author, by the said statute, precluded from every remedy except on the foundation of the said statute, and on the terms and conditions prescribed thereby?"

The same was agreed to; and the said Questions were accordingly put to the Judges.

Then it was proposed, by lord Camden, That the Judges likewise be directed to deliver their Opinions upon the following Questions;

4. "Whether the author of any literary composition, and his assigns, had the sole right of printing and publishing the same, in perpetuity, by the common law?"

5. "Whether this right is any way impeached, restrained, or taken away, by the statute 8th Anne?"

The same was agreed to; and the said Questions were accordingly put to the Judges. Whereupon, the Judges desiring that some time might be allowed them for that purpose; it was ordered, That the further consideration of this cause be adjourned till Tuesday next; and that the Judges do then attend to deliver their opinions upon the said Questions.

Feb. 15. The Lord Chancellor acquainted the House, That the Judges differed in their Opinions upon the said Questions, upon which, it was ordered, That the Judges present do deliver their Opinions upon the said Questions *seriatim*, with their Reasons. Accordingly,

Mr. Baron *Eyre* first rose and delivered his Opinion, with the Reasons whereon that opinion was founded, in substance as follows:

He observed, that great pains had been taken by the ingenious counsel for the respondents, to avoid considering the sub-

ject as at all connected with metaphysic subtleties; that such an attempt though highly praise-worthy in those who had the interest of their clients at heart, was yet totally impracticable, as every endeavour to disclaim the use of metaphysic reasoning tended only to shew how necessary it was to the accurate discussion of the subject. That the question in fact was respecting a right to appropriate ideas. That the objects over which a right, and in which an exclusive property was claimed, were incorporeal existences, which could not be treated of with any degree of accuracy, without having recourse to the aid of scientific disquisition. That the thinking faculty was a gift with which all men were endowed; that ideas produced by the occupation of a thinking faculty common to all, should likewise be held common, and no more be deemed subject to exclusive appropriation than any other of the common gifts of nature.

Hence the baron put an absolute negative upon the first Question, relative to the author of a book or literary composition having a right at common law to the exclusive sale of such book or literary composition. This the baron denied in the most positive terms. He said, that, from the very nature of the contents of a book, they were incapable of being made objects of common law property; nothing could be predicated of them, which was predicable of every other species of property subject to the controul and within the limits of the protection of the common law. A right to appropriate ideas was a right to appropriate something so ethereal as to elude definition! so intellectual as not to fall within the limits of the human mind to describe with any tolerable degree of accuracy. Ideas, if convertible into objects of property, should bear some faint similitude to other objects of property; they did not bear any such similitude, they were altogether anomalous. They could not pass by descent to heirs; they were not liable to bequest; no characteristic marks remained whereby to ascertain them; and, were such incorporealities not subject to one of the conditions which constituted the very essence of property original or derivative; were such incorporealities liable to exclusive appropriation, by any right founded in the common law?

The baron observed, that if the notion of a common law right should be reprobated, such reprobation carried with it an explicit answer to the second Question:

there being no common law right, an action could not be maintained against the re-publishers of an author's book or literary composition, without his consent.

The baron next proceeded to brand an exclusive appropriation of literary works, with the epithets of "a monopoly," against every kind of which the statute of James I had sufficiently provided. Yet the baron contended, that even monopolies, in some cases, were allowable, but then the state had taken care to allow them only for a convenient time.

Previous to the invention of printing, the idea of a common law right, the baron said, had not been suggested; and subsequent to the invention of this useful art, so little notion had authors of a right at common law to exclusive appropriation, that before the institution of the Stationers Company they had recourse to the legislature for a licence, grant, patent, or privilege; that after the institution of the Stationers Company the only mode thought of to secure the appropriation of a literary composition was, by an entry in the records of that Company, and the person in whose name the book was entered, let him come by it how he would, was deemed the proprietor, the author never being so much as mentioned on these occasions.

The baron then reviewed the cases which, by the respondents' counsel, had been adduced to prove the sentiments of the court of Chancery in favour of a common law right. But the baron contended, that although the court of Chancery had frequently granted injunctions, it cautiously avoided giving any final adjudication upon the matter. An antecedent common law right was never hinted at; nor were the injunctions granted in the cases cited, at all in point; they had been granted on the appearance of something fraudulent upon the face of the transaction; as in the case of Pope and Curl.

Nor did injunctions prove the Chancellor's opinion upon a matter of common law right, in confirmation of which (added the baron) I will venture an anecdote. There is a paper now existing, containing some notes lord Hardwicke had taken down, which set forth the sole and exclusive right of an author at common law, to multiply copies for sale. In the margin of which paper, and opposite to this very passage, there is in lord Hardwicke's own hand writing a very large Q, which proves that his lordship entertained doubts respecting the legality of the position.

The baron considered a book precisely upon the same footing with any other mechanical invention. In the case of mechanic inventions, ideas were in a manner embodied, so as to render them tangible and visible; a book was no more than a transcript of ideas; and, whether ideas were rendered cognizable to any of the senses, by the means of this or that art, of this or that contrivance, was altogether immaterial: yet every mechanical invention was common whilst a book was contended to be the object of exclusive property! So that Mr. Harrison, after constructing a time-piece, at the expence of forty years labour, had no method of securing an exclusive property in that invention, unless by a grant from the state; yet if he was in a few hours to write a pamphlet, describing the properties, the utility, and construction of his time-piece, in such pamphlet he would have a right secured by common law; though the pamphlet contained exactly the same ideas on paper, that the time-piece did in clock work machinery. The clothing is dissimilar; the essences, clothed, were identically the same.

The baron urged the exactitude of the resemblance between a book and any other mechanical invention, from various instances of agreement. On the whole, the baron contended, that a mechanic invention and a literary composition exactly agreed in point of similarity; the one therefore was no more entitled to be the object of common law property than the other; and as the common law was entirely silent with respect to what is called literary property, as ancient usage was against the supposition of such a property, and as no exclusive right of appropriating those other operations of the mind, which pass under the denomination of mechanical inventions, was vested in the inventor by common law, the baron, for these reasons, declared himself against the principle of admitting the author of a book, any more than the inventor of a piece of mechanism, to have a right at common law to the exclusive appropriation and sale of the same.

This was an answer to the first and second questions. It was also an answer to the first question proposed by lord Camden; for if an author had no right at all by common law, he could have none in perpetuity.

But admitting him to have had such common law right; in reply to the third

and fifth question, which asks, "how far the statute of the 8th of queen Anne affects the case, or takes away a common law right existing antecedently in an author or his assignees?" Baron Eyre contended, that every principle of a common law right was effectually done away by this statute. This he essayed to prove from the title, preamble, and certain clauses of the Act, from the adoption of the word "vest," and the mode of expression used, of "giving an author an exclusive property for 14 years, and no longer." He therefore gave it as his opinion:

1. "That, at common law, an author of any book or literary composition had not the sole right of first printing and publishing the same for sale, and could not bring an action against any person who printed, published, and sold the same, without his consent:

2. "That if the author had such sole right of first printing, the law did take away his right upon his printing and publishing such book or literary composition; and that any person might afterward reprint and sell, for his own benefit, such book or literary composition, against the will of the author:

3. "That such right is taken away by the statute of 8th Anne, and that an author, by the said statute, is precluded from every remedy except on the foundation of the said statute: but that there may be a remedy in equity upon the foundation of the statute, independant of the terms and conditions prescribed by the statute in respect of penalties enacted thereby:

4. "That the author of any literary composition, and his assigns, had not the sole right of printing and publishing the same in perpetuity, by the common law:

5. "That the right is impeached, restrained, and taken away, by the statute 8th Anne."

Mr. Justice Nares spoke next, and began by observing that the historical nature of the case had been so learnedly and fully agitated in the hearing of the House that he should wave entering into it, but should rather rest his opinion on general conclusions, deduced from principles which arose from fair argument. He stated to the House why he thought a common law right in literary property did exist, and why the statute of queen Anne did not take it away. He observed that he was of Mr. Dunning's sentiments, that as it was admitted on all hands that an author

had a beneficial interest in his own manuscript before publication, it was a most extraordinary circumstance that he should lose that beneficial interest the very first moment he attempted to exercise it. Mr. Justice Nares put several cases to support his argument, and the statute, he said, did not take away the common law remedy, although it gave an additional one, as in the case of an action for maliciously suing out a commission of bankruptcy, although the statutes of bankruptcy have provided an additional penalty for that offence by the bond given to the chancellor; after having spoke near an hour, he concluded with giving his opinion:

1. "That, at common law, an author of any book or literary composition had the sole right of first printing and publishing the same for sale, and might bring an action against any person who printed, published, and sold the same, without his consent:

2. "That the law did not take away his right upon his printing and publishing such book or literary composition; and that no person might afterward reprint and sell, for his own benefit, such book or literary composition, against the will of the author:

3. "That such action at common law is taken away by the statute 8th Anne; and that an author, by the said statute, is precluded from every remedy except on the foundation of the said statute, and on the terms and conditions prescribed thereby:

4. "That the author of any literary composition, and his assigns, had the sole right of printing and publishing the same in perpetuity, by the common law:

5. "That this right is impeached, restrained, and taken away, by the statute 8th Anne."

Judge Ashurst then rose, and accorded in opinion with Mr. Justice Nares, after tracing the nature of literary property, and producing many cogent reasons to prove that such a claim was warranted by the principles of national justice and solid reason. Making an author's intellectual ideas common, was, he observed, giving the purchaser an opportunity of using those ideas, and profiting by them, while they instructed and entertained him; but he could not conceive that the vender, for the price of 5s., sold the purchaser a right to multiply copies, and so get 500*l*. Literary property was to be defined and described as well as other matters, and mat-

ters which were tangible. Every thing was property that was capable of being known or defined, capable of a separate enjoyment, and of value to the owner. Literary property fell within the terms of this definition. According to the appellants, if a man lends his manuscript to his friend, and his friend prints it, or if he loses it, and the finder prints it, yet an action would lie (as Mr. Justice Yeates had admitted), which shewed that there was a property beyond the materials, the paper and print. That a man, by publishing his book, gave the public nothing more than the use of it. A man may give the public a highway through his field, and if there was a mine under that highway, it was nevertheless his property. It had been said, that when the bird was once out of the hand, it was become common, and the property of whoever caught it; this was not wholly true, for there was a case upon the law books, where a hawk with bells about its neck had flown away; a person detained it, and an action was brought at common law against the person who did detain it; a book with an author's name to it was the hawk, with the bells about its neck, and an action might be brought against whoever pirated it. Since the statute of Monopolies, no questions could exist about mechanical inventions. Manufactures were at a very low ebb till queen Elizabeth's time. In the reign of James the first, the statute of Monopolies was passed; since that Act no inventor could maintain an action without a patent. It is the policy of kingdoms, and preservation of trade to exclude them. The appellants were contending for the right of printing; but the right of exercising a trade with another man's materials, could not be allowed either by reason or natural justice. A miller might grind corn, a carpenter might build a house; but the first was not warranted in grinding any corn but his own, nor the carpenter in building a house with another man's wood. The cases of Eyre and Walker, and Tonson and Walker, happened since the statute. With regard to the question, its being capable of perpetuity, few subjects were so. Even land, the most tangible species of property, might be washed away by the sea, and therefore might be rendered incapable of being perpetually enjoyed. He thought, however, that the respondents were entitled to as full an enjoyment, as the nature of the case could allow.—He declared it as his Opinion:

[VOL. XVII.]

1. "That, at common law, an author of any book or literary composition had the sole right of first printing and publishing the same for sale, and might bring an action against any person who printed, published, and sold the same, without his consent:

2. "That the law did not take away his right upon his printing and publishing such book or literary composition; and that no person might afterward reprint and sell, for his own benefit, such book or literary composition, against the will of the author:

3. "That such action at common law is not taken away by the statute 8th Anne; and that an author, by the said statute, is not precluded from every remedy except on the foundation of the said statute, and on the terms and conditions prescribed thereby:

4. "That the author of any literary composition, and his assigns, had the sole right of printing and publishing the same in perpetuity, by the common law:

5. "That this right is not any way impeached, restrained, or taken away, by the statute 8th Anne:"

Then Mr. Justice Ashurst delivered the Opinion of Mr. Justice *Blackstone* (who was absent, being confined to his room with the gout) upon the said questions;

1. "That, at common law, an author of any book or literary composition had the sole right of first printing and publishing the same for sale, and might bring an action against any person who printed, published, and sold the same, without his consent:

2. "That the law did not take away his right upon his printing and publishing such book or literary composition; and that no person might afterward reprint and sell, for his own benefit, such book or literary composition against the will of the author:

3. "That such action at common law is not taken away by the statute of 8th Anne; and that an author, by the said statute, is not precluded from every remedy except on the foundation of the said statute, and on the terms and conditions prescribed thereby:

4. "That the author of any literary composition, and his assigns, had the sole right of printing and publishing the same in perpetuity, by the common law:

5. "That this right is not any way impeached, restrained, or taken away, by the statute 8th Anne."

[3 R]

Feb. 17. The order of the day being read, for the rest of the Judges to deliver their Opinions upon the several Questions put to them,

Mr. Justice *Willes* spoke first, and after having shewn of what species of property the author's copy right stood : that it was like an estate, that it was assignable, and that every man conceived what it meant ; he declared it as his opinion, that an author had an indisputable power and dominion over his manuscript ; that that power was not alienated when the manuscript was printed and published ; that the author had an exclusive right of multiplying copies according to the common law, which was founded on reason and truth. This claim of right began with printing, and for the especial reason, because copies could not be easily multiplied but by the press ; and, therefore, that from which no profit could be got, was hardly a property. In the course of the arguments this claim had been called by the odious name of a monopoly. This was a popular argument ; but *argumenta ad populum* were not always well founded ; and upon proper investigation, this appeared to be more specious than real. After a variety of learned observations and several instances cited to prove that copy-right did exist independent of patents, privileges, Star Chamber decrees, or the statute of queen Anne ; particularly the case of Tillotson's Sermons, for the copy-right of which the archbishop's family received 2,500*l.* after the expiration of the licensing act and previous to the act of queen Anne, judge Willes gave his opinion upon the 1st, 2nd, and 4th questions, that at common law an author had the sole right of first printing and publishing the same for sale, and might bring an action against any person who printed, published, and sold the same without his consent ; and likewise that after publication, an author, or his assigns, had an exclusive right in perpetuity of multiplying copies. He then proceeded upon the statute of queen Anne, which he declared did not take away that right. It was, he observed, an Act very inaccurately penned, but nevertheless it conveyed to his mind no idea of the legislature entertaining an opinion that, at the time of passing it, there was no common law right ; the word 'vesting' appearing in the title had given rise to such an idea, but the preamble contradicted it in the fullest manner ; the words of it were, "Whereas certain printers and book-

sellers have taken the liberty of printing and reprinting, &c. &c.;" the phraseology of this sentence plainly proved that a known right previous to that statute existed ; the legislature would not have termed the exercise of what was common to all, 'taking a liberty,' had they not understood that a right in perpetuity existed at common law, the words of the preamble to the Bill would probably have been, "Whereas certain printers and booksellers claim a right of printing, &c." And the mention of the word 'reprinting,' shewed that the idea prevailed that an author's property went farther than the first publication. The universality of the saving clause, judge Willes observed, convinced him that the right at common law, which he had supposed to have existed antecedent to that Act, was left untouched by it. That it was not a particular salvo for the universities, and the holders of copy-right by patent, but that it was general, mentioning the words "all persons." Having, by a multitude of arguments, maintained the doctrine of a perpetuity, he answered the 3rd and 5th questions by giving it as his opinion, that an action at common law was not any way impeached, restrained, or taken away by the statute of queen Anne ; nor was the author precluded by such statute from any remedy, except on the foundation of the said statute, and the terms and conditions prescribed thereby.

Mr. Justice *Aston* next gave his answer, beginning with reading a learned judge's sentiments in favour of literary property, as reported by sir James Burrow : he agreed with the three judges who had spoken before him, that it was a property, and that it belonged to an author independent of any statutory security. It was not necessary, he observed, for any man to advert either to the Grecians or Romans to discover the principles of the common law of England. Every country had some certain general rules which governed its law : that our common law had its foundation in private justice, moral fitness, and public convenience ; the natural rights of every subject were protected by it, and there did not exist an argument which would amount to conviction that an author had not a natural right to the produce of his mental labours. If this right originally existed, what but an act of his own could take it away ? By publication he only exercised his power over it in one sense ; when one book was sold, it never

could be thought that the purchaser had possessed himself of that property which the author held before he published his work. A real abandonment on the part of the first owner must have taken place, before his original right became common.

In all abandonments, Judge Yeates had defined, that two circumstances were necessary; an actual relinquishing the possession, and an intention to relinquish it; in the present case neither could be proved. Many manuscripts had not been committed to the press till years after they were written: the possession of them for a century did not invalidate the claim of the author or his assigns. With regard to mechanical instruments, because the Act against monopolies had rendered it necessary for the inventors of them to seek security under a patent, it could be no argument why in literary property there should be no common law right. He thought it would be more liberal to conclude, that previous to the monopoly statute, there existed a common law right, equally to an inventor of a machine and an author of a book. After a variety of arguments drawn from the nature of the property, and the construction which could rationally be put upon the Act of publication, judge Aston gave his opinion in favour of the first, second and fourth questions. With regard to the statute of queen Anne, he observed that it was no more than a temporary security, given by the legislature to the author, enabling him to recover penalties, and bring a matter of complaint against any person who printed upon him to a more certain issue than by an action at common law. After citing the injunctions granted by the court of Chancery, and arguing upon the multitude of circumstances deducible in favour of literary property from the natural rights of the subject, the immediate nature of the property, the idea uniformly entertained of its existence from the æra of the commencement of printing to the present day, as well as his construction of the statute of queen Anne, he gave his answer to the third and fifth questions, declaring it his opinion that an action at common law was not any ways impeached, restrained, or taken away by the 8th of queen Anne.

Mr. Baron Perrott spoke next, and began, by observing, that the argument for the existence of a common law right, and the definition of literary property, as chattel property, was in his idea exceedingly ill founded and absurd. If literary pro-

perty was a chattel, then upon the death of the possessor of a manuscript, any simple contract creditor might oblige his family or assigns to give it up and suffer him to print it. An author certainly had a right to his manuscript; he might line his trunk with it, or he might print it. After publication, any man might do the same, their lordships might turn printers if they chose and print it. From the patents, the privileges, the Star-chamber decrees, and the licensing acts, it was evident that in those days no idea was entertained of an author's having any claim to the exclusive right of printing what he had once published: if a manuscript was surreptitiously obtained, an action at common law would certainly lie for the corporeal part of it, the paper. So if a friend to whom it was lent, or a person who found it, multiplied copies, having surrendered the original manuscript, he had surrendered all that the author had any common law right to claim. He spoke of the right under patents and privileges as a right petitioned for by printers without any thought of an author's entertaining an idea that he had any claim. As to the Stationers Company, surely we were not to look for the common law among them. All their rules and orders were for the security of such peculiar works as their own members had been wont to print. An inventor of a machine or mechanical instrument, like an author, gave his ideas to the public. Previous to publication, he possessed the *jus utendi, fruendi, et disponendi*, in as full an extent as the writer of a book; and yet it never was heard that an inventor, when he sold one of his machines, or instruments, thought the purchaser, if he chose it, had not a right to make another after its model. The right of exclusively making any mechanical invention was taken away from the author or inventor by the Act against monopolies of the 21st of James the 1st. Which Act saved prerogative copy rights, and which would have mentioned what was now termed literary property, had an idea existed that there was a common law right for an author or his assigns exclusively to multiply copies. The argument that when a book was published and sold, there was an implied contract between the author and purchaser, could not be maintained. The purchaser bought the paper and print, the corporeal part of his purchase; and he bought a right to use the ideas, the incorporeal part of it. The doctrine of implied contracts would not hold, as it was

improbable. The author sustained a loss, but no injury, from another's printing his copy. *Damnum sine injuria* was an established maxim of law. As another, by multiplying copies reaped profit, the original author sustained a loss, but he sustained no injury. To be injured, a man must lose his right; that right must be founded in law: and where the law gives no remedy, an author can claim no right; the matter is common to all. It had been said that a declaration had been filed on an action at common law, for the invasion of copy right; but it had not been found, although every law book had been ransacked for the purpose, that a trial was ever had at common law. An incontrovertible proof that there was not a lawyer in Westminster-hall who supposed that there existed any right at common law. The present claim was neither more nor less than a claim for a monopoly, and all monopolies were odious to the common law.

The baron contended that the arguments of the counsel, and the opinions of those on the other side of the question, were more ingenious than convincing. He therefore answered the first, second, and fourth questions in the negative, being fixed in opinion that there never existed a common-law right, and that an author had no claim to his manuscript after publication. Respecting the statute of queen Anne, he was perfectly convinced that it was the only security that authors or booksellers had. That it gave a right for 14 years to the holders of copies, and after that period the right reverted to the authors for 14 years longer. The baron said he could not speak to the Act, without having it in his hand; he first read the title, and declared that all the metaphysical subtlety of definition which the ablest logician could muster, could not give any other sense to the words "for the encouragement of learning, and for vesting a right in authors," than a creation of a property, not a further security for one. He then read the preamble, and went through the Act sentence by sentence, particularly investigating the meaning of each clause, and drawing from its meaning strong arguments in favour of the opinion he was laying down. The words "and no longer," he declared were clear and conclusive; out of the power of argument to surmount. With regard to the injunctions cited on the occasion, the court of Chancery must have uniformly mistaken the law, if they

had not granted them under the idea of the statute. The Act itself gave no more remedy with its penalties, than it did without them. An author in the first was allowed to damask all the books pirated upon him; by damasking he understood, turn to waste paper and line trunks, which linings were figured like damask. What remedy was this? none in the world. Then again, a penny per book was to be recovered, half of which went to the informer and half to the king; here therefore the author got nothing. The statute afforded him grounds for a remedy in equity. The court of Chancery, by an injunction and a decree, not only stopped the sale of the pirated copies, but also obliged the pirate to account for what he had sold. This was a satisfaction; this was an actual and an effectual remedy. To suppose that the saving clause maintained a perpetuity of property, was to suppose that the Act granted an author 14 years and no longer, except for ever, which was so barefaced, so egregious an absurdity, that no man of sense could be the dupe of it. That the court of Chancery had never dreamt of a common-law right, he proved by citing a case between the Stamp Office and a news-paper printer; a fellow, a printer, got into the Fleet, and there printed news-papers without stamps. The Stamp Office prayed an injunction, the court refused it, and told them, the statute having enacted, that a penalty was to be paid on conviction, that they must prosecute to conviction under the statute, and they had a right to the penalty, but they could not upon the principles of common law prevent the printer from continuing his trade. This proved that statute laws were unnecessary where remedies could be had at common law. After the baron had animadverted on the printers who claim the right of perpetuity, and instanced many cases, all tending to corroborate his opinion, he concluded his speech by affirming that there was no right at common law previous to the 8th of queen Anne, and that if there was, that statute entirely and effectually took it away.

Mr. Justice Gould agreed, that an author had a right at common law to his manuscript previous to publication, and he thought that right should continue to him under certain restrictions after publication; as public convenience was one of the elements of the common law, that should be consulted by an author or

printer after publication; he was glad therefore to hear it stated, that the respondents always kept a certain number of the book upon which the present appeal was grounded, ready for those who chose to purchase; he observed, that if this was not the case, it might be urged that the claim was a monopoly detrimental to the public, and he thought that if a book was kept out of print for an unreasonable time, it was a kind of abandonment of property in the original possessor, and the subject of it ought, for the public convenience, to become common. Under this idea he answered the first, second, and fourth questions. With regard to the statute of queen Anne, he conceived that the Act entirely took away any previous right that an author might have, and that an author was precluded by such statute from any remedy, except on the foundation of the same statute, and the terms and conditions prescribed thereby. This answer he gave to the third and fifth questions.

Mr. Baron *Adams* entered very learnedly into the nature of patents, privileges, and grants of the crown; traced them respecting books to a very early period, and cited a variety of instances, all tending to prove, that till of late years no idea was entertained that a common-law right existed respecting what was now termed literary property. That authors never dreamt of any claim in their favour, after they had parted with their manuscript; that printers, conscious of their having no other security, had recourse to patents and privileges. That there were many books which were called prerogative copies, but that they were not so called from the crown having paid for them. Acts of parliaments were prerogative copies, but they could not be said to be the property of the crown. It was an especial part of the prerogative to protect the religion and laws of the kingdom, therefore the king had the right of appointing his own printer in both instances. He was clearly of opinion that, previous to the statute of queen Anne, authors and printers had no security but by patents. He therefore answered the first, second, and fourth questions in the negative. It had been said that the statute of queen Anne was very inaccurately penned, the observation he declared would certainly hold, if it was construed as not to affect the original common-law right of an author, but if on the other hand it was supposed to give a legal security for a li-

imited time only, it was worded with a proper degree of precision and accuracy. The Act most evidently created a property which did not exist before; the words "fourteen years and no longer," limited the security it gave, and the saving clause could not refer to any common-law right, because he was convinced that there existed no common law right. It was merely a salvo to the Universities and all who held under letters patent, which alone could in books or copies give a perpetuity. The baron answered the third and fifth questions in the negative.

Feb. 21. The order of the day being read for the rest of the Judges to deliver their Opinion upon the several Questions put to them,

Lord Chief Baron *Smythe* observed, in answer to the first, second, and fourth questions, that the cases proved that property did exist previous to publication, and that publication could not alter it; for that publication neither made it a sale, a gift, a forfeiture, nor an abandonment, which were the only ways that a person could part with his property. When a man published his manuscript, he sold to one person only one book, and the use of that one book, without any design of allowing the purchaser to multiply copies; if he gave a book away, he gave it under the same restrictions. A forfeiture always implied a crime, and then the right of property became vested in the crown; an abandonment could not be without an intent of relinquishing his right, and such intent was not deducible from a publication of the ideas written by an author. In the cases of Pope and Curl, the letters were the property of those to whom they were sent; but the ideas remained as matter of right vested in the sender. In the case of lord Shaftesbury's manuscript, the same deduction followed; for Mr. Gwynne sold to Shebbeare what he had no authority from the author (lord Shaftesbury,) or his assigns, to dispose of. There was no act of dishonesty on the part of Shebbeare, although the manuscript was surreptitiously obtained, and the family had a remedy.

Some lawyers, yet alive, remembered the case of lord chief baron Gilbert's manuscripts, which he devised to baron Clarke; the baron never published them, but a hackney-writer, whom he employed, took an opportunity of copying them, and these stolen copies were committed to the

press. The same argument lay against pirating after, as before publication.

It had been mentioned, that a man made his landed estate common by giving a part of it to the highway; but it surely would not be contended, that, although he gave a part of his estate for such a purpose, any person but himself had a right to the trees on it, or the mines beneath it. He adverted to the case of *Basket* and the University of Cambridge, and declared that the argument was then grounded on these principles. He cited likewise the cases which, both at the bar and by the judges, had been mentioned of *Eyre* and *Walker*, and others, all of which were after the 21 years were expired, and which, redress being obtained, spoke in favour of the common-law right. He instanced also the case of the *Sessions-Paper* as corroborative of this opinion.

As to mechanical inventions, he did not know that, previous to the Act of 21 James 1, an action would not lie against the person who pirated an invention. An orrery none but an astronomer could make; and he might fashion a second, as soon as he had seen a first; it was then in a degree an original work: whereas, in multiplying an author's copy, his name as well as his ideas were stolen, and it was passed upon the world as the work of the original author, although he could not possibly amend any errors which might have escaped in his first edition, nor cancel any part which, subsequent to the first publication, appeared to be improper.

After several other similar observations, he answered the first, second, and fourth questions in the affirmative.

The statute of queen Anne he looked upon as a compromise between authors and printers contending for a perpetuity, and those who denied them any statute right. The word 'vesting,' if it could be tortured so as to tell against the present claim, was sufficiently qualified and done away by the word 'secure,' which occurred in the enacting clause, and which plainly implied a security for something pre-existing. The preamble gave full authority to this construction, the word 're-printing' particularly implying a right after the first publication; and the word 'purchaser' (which was one of the parties mentioned by the Act as being secured in their property) indicated most amply a previous right, for nobody could be thought to purchase what another had not a right to sell. The baron said that the statute afforded

the holders of copy right a more efficacious remedy than the common law, but that it by no means impeached, restrained, or took away, the common-law right. He therefore answered the third and fifth questions in the negative.

Lord Chief Justice *De Grey* spoke next. His arguments were substantially as follow:

With respect to the first question, there can be no doubt that an author has the sole right to dispose of his manuscript as he thinks proper; it is his property, and, till he parts with it, he can maintain an action of trover, trespass, or upon the case, against any man who shall convert that property to his own use: but the right now claimed at the bar, is not a title to the manuscript, but to something after the owner has parted with, or published his manuscript; to some interest in right of authorship, to more than the materials, or manuscript, on which his thoughts are displayed; which is termed literary property, or an exclusive privilege of multiplying copies of the manuscript, or book, which right is the subject of the second question proposed to us.

Now, if there exists any incorporeal right or property in the author, detached from his manuscript, no act of publication can destroy it. Can then such right or property exist at all? Does such a right come within the knowledge or reach of the common law? In answer to the first of these queries, I acknowledge that, though this claim of property is abstract and ideal, novel and refined, it is yet intelligible, and may as easily be made to exist for ever as for a term of years; but, in order to know whether it is so protected by law, a preliminary question is necessary, whether any determination has been made in its favour, by the great and learned men who have been my predecessors, in regular course of judicature? It is not for me to shake a respectable series of decisions, and unhinge the foundations of an established right, by any *à priori* reasoning of my own; but, after investigating the decisions of the courts of common law, I can find no such determinations. What is common law now, must have been so 300 years ago, when printing was invented. No traces of such a claim are to be met with prior to the Restoration. Very few cases of this kind happened in Charles 2d's time, or before the licensing act, and those few were deter-

mined upon the prerogative right of the crown. The executive power of the crown drew after it this prerogative right, which extended to all acts of parliament, matters of religion, and acts of state. The case of *Basket* and the University of Cambridge, which was a late one of the same kind, appeared, upon the pleadings, to be a question arising between two parties, who claimed under concurrent and inconsistent grants of the crown. My late hon. and learned friend, Mr. Yorke, who argued that case, endeavoured to shew, that his client's right might arise from the power of the crown; and, to illustrate his argument, said, it might perhaps be "property founded on prerogative,"—a language, however allowable for counsel, not very admissible by, or intelligible to, a judge: but the certificate in the above case does not say a word of property; and, indeed, if such a claim as that had been founded on property, every one would have as good right to publish abridgments of the statutes, as of any other book.

Lord Northington granted injunctions on behalf of publications which he considered as matters of state, but left such works as *The Whole Duty of Man* to their common remedy at law. When works of literature, encouraged by the facility of printing, began to spread, we find the cases multiply. Of these, however, I lay entirely out of the question, all those which appear to be cases between rival patentees of the crown, all those relating to the Stationers Company, all those concerning religion, law, or the state, and all unpublished manuscripts.

I shall premise, too, before I examine the cases which happened after the statute, that I am of opinion, that the statute gives authors and their assigns a general right not connected with the penalty, and that statutable right falls under the protection of a court of equity, and may claim the benefit of an injunction. To obtain such an injunction, it is by no means necessary that the plaintiff should make out a clear indisputable title. It may be granted on a reasonable pretence, and a doubtful right, before the hearing of the cause; nor is it objection that the party applying for it has a remedy at law. No bill for an injunction is to be found before the statute.

The causes which have come before the court of Chancery since the statute, I find to be 17 in number. Of these eight

were founded on the statute right: in two or three, the question was, whether the book was a fair abridgment: and all the rest were injunctions granted *ex parte*, upon filing the bill, with an affidavit annexed. In these cases the defendant is not so much as heard; and can I imagine, that so many illustrious men, who presided in the court of Chancery, would, without a single argument, have determined so great and copious a question, and which has taken up so much of your lordships' time? In fact, none of them wished to have it said he had formed any opinion on the subject.

From my own experience at the bar, I know that the successive chancellors and masters of the Rolls, lord Northington, lord Camden, sir Thomas Clark, &c. have all looked upon the case as undetermined; it may now, therefore, be fairly treated as a new question; and indeed, it has been argued as such upon general principles. Let us consider what principles have been laid down as the foundation of this new species of property. I have heard but of one, namely, that such a claim is inconsistent with the moral fitness of things. This idea of moral fitness is indeed an amiable principle, and one cannot help wishing all claims derived from so pure a source might receive all possible encouragement; but this principle is no universal rule of law, nor can it be made to apply in all cases. Beautiful as it may be in theory, to reduce it into the practice and execution of common law would create intolerable confusion; it would make laws vain, and judges arbitrary.

Nor is it possible to support the Respondents' claim upon this principle, and not allow its operation in a variety of other cases, where, it is confessed on all hands, it cannot be allowed. Abridgments of books, translations, notes, as effectually deprive the original author of the fruit of his labours, as direct particular copies, yet they are allowable. The composers of music, the engravers of copper-plates, the inventors of machines, are all excluded from the privilege now contended for; but why, if an equitable and moral right is to be the sole foundation of it? Their genius, their study, their labour, their originality, is as great as an author's, their inventions are as much prejudiced by copyists, and their claim, in my opinion, stands exactly on the same footing; a nice and subtle investigation may, perhaps, find out some little logical or mechanical diffe-

rences, but no solid distinction in the rule of property that applies to them can be found. If such a perpetual property remains in an author, and his right continues after publication, I cannot conceive what should hinder him from the full exercise of that right in what manner he pleases; he may set the most extravagant price he will upon the first impression, and refuse to print a second when that is sold. If he has an absolute controul over his ideas when published, as before, he may recal them, destroy them, extinguish them, and deprive the world of the use of them ever after; his forbearing to reprint is no evidence of his consent to abandon his property, and leave it as a derelict to the public.

But it is said, that the sale of a printed copy is a qualified or conditional sale, and that the purchaser may make all the uses he pleases of his book, except that one of reprinting it; but where is the evidence of this extraordinary bargain? or where the analogy of law to support the supposition? In all other cases of purchase, payment transfers the whole and absolute property to the buyer: there is no instance where a legal right is otherwise transferred by sale, an example of such a speculative right remaining in the seller. It is a new and metaphysical refinement upon the law; and laws, like some manufactures, may be drawn so fine as at last to lose their strength with their solidity. When printing was first introduced, cardinal Wolsey warned king Henry 8 to be cautious how he encouraged it, as a matter which might be dangerous to the state. The event, however, did not prove it so, and, therefore, the statute of the 21st of James 1 excepted it, as a reasonable and allowable monopoly.

The subsequent licensing act gave only an adventitious right; and thus it rested till the statute of queen Anne. The statute certainly recognizes no common law right, *hinc illæ lachrymæ!* Nor can I suppose this omission happened through ignorance or inadvertence, when I see such great law-names as Holt, Cooper, Harcourt, Somers, &c. in the list of that parliament.

If such a right existed at common law, and it remained unimpeached by that statute, why that anxiety in authors and booksellers afterwards to obtain another sanction for their property? whence those different applications to parliament, in the years 1735, 1738, 1739, for a longer term

of years, or for life, in this kind of property, and afterwards to get an act to prohibit the liberty of printing books in foreign kingdoms, and sending them back again. The truth is, the idea of a common-law right in perpetuity was not taken up till after that failure in procuring a new statute for an enlargement of the term. If (say the parties concerned) the legislature will not do it for us, we will do it without their assistance; and then we begin to hear of this new doctrine, the common law right, which, upon the whole, I am of opinion, cannot be supported upon any rules or principles of the common law of this kingdom.—The Chief Justice answered the first question in the affirmative; the second and fourth in the negative; and the third and fifth in the affirmative.

February 22. The Judges having all delivered their Opinions except lord Mansfield, who declined speaking as a Judge, it was this day moved, “to reverse the Decree complained of.” Upon this occasion,

Lord Camden spoke as follows:

My lords; after what the lord chief justice De Grey yesterday so ably enforced, there will be little occasion for me to trouble your lordships; nor will the present state of my health, and the weakness of my voice, allow me to exert myself were I ever so much inclined; but the nature of my profession, and the duty I owe to this House, will not suffer me to remain silent, when so important a question is to be determined. The fair ground of the argument has been very truly stated to you by the Lord Chief Justice: I hope what was yesterday so learnedly told your lordships, will remain deeply impressed on your minds.

The arguments attempted to be maintained on the side of the Respondents, were founded on patents, privileges, Star-chamber decrees, and the bye laws of the Stationers' Company; all of them the effects of the grossest tyranny and usurpation; the very last places in which I should have dreamt of finding the least trace of the common law of this kingdom: and yet, by a variety of subtle reasoning and metaphysical refinements, have they endeavoured to squeeze out the spirit of the common law from premises, in which it could not possibly have existence. They began with their pretended precedents

and authorities, and they endeavoured to model these in such a manner, as to extract from them something like a common law principle, upon which their argument might rest.

I shall invert the order, and first of all lay out of my way the whole bead-roll of citations and precedents, which they have produced—that heterogeneous heap of rubbish, which is only calculated to confound your lordships, and mislead the argument. After the first invention of printing, the art continued free for about fifty years. I mean to lay no stress upon this; I mention it only historically, not argumentatively; for as the use of it was little known, and, not very extensive, its want of importance might protect it from invasion; but as soon as its effects in politics and religion were felt, all the crowned heads in Europe at once seized on it, and appropriated it to themselves. Certain it is, that in England the crown claimed both the power of licensing what should be printed, and the monopoly of printing. Two licences were granted to those who petitioned for them. An author not only was obliged to sue for a licence to print at all, but he was also obliged to sue for a second licence that he might print his own works. When the king had once claimed the right of printing, he secured that right by patents and by charters. Still further to secure his monopoly, he combined the printers, and formed them into a company, then called the Stationers' Company, by whose laws, none but members could print any book at all. They assumed powers of seizure, confiscation and imprisonment, and the decrees of the Star Chamber confirmed their proceedings. These transactions, I presume, have no relation to the common law; and when they were established, where could an author, independent of the company, print his works, or try his right to it? Who could make head against this arbitrary prerogative, which stifled and suppressed the common law of the land? Every man who printed a book, no matter how he obtained it, entered his name in their books, and became a member of their company: then he was complete owner of the book. Owner was the term applied to every holder of copies; and the word 'author' does not occur once in all their entries.

All societies, good or bad, arbitrary or illegal, must have some laws to regulate them. When an author died, his executors naturally became his successors. The manner in which the copy-right was held

[VOL. XVII.]

was a kind of copyhold tenure, in which the owner has a title by custom only, at the will and pleasure of the lord. The two sole titles by which a man secured his right was the royal patent and the licence of the Stationers' Company; I challenge any man alive to shew me any other right or title. Where is it to be found? some of the learned judges say the words 'or otherwise' in the statute of queen Anne relate to a prior common law right? To what common law right could these words refer? At all the periods I have mentioned, the common law rights were held under the law of prerogative. It was the general opinion that there was no other right, and the corrupt judges of the times submitted to the arbitrary law of prerogative. In the case of the Stationers' Company against Seymour, all the judges declared that printing was under the direction of the crown, and that the court of King's-bench could seize all printers of news, true or false, lawful or illicit. But if it was made use of to protect authors, what was this protection? a right derived under a bye law of a private company. A protection similar to that which we give the Great Mogul; when we want any grant from him, we talk submissively, and pay him homage, but it is to serve our own purpose, and to feast him with a shadow that we may attain the substance.

In short, the more your lordships examine the matter, the more you will find that these rights are founded upon the charter of the Stationers' Company and the royal prerogative; but what has this to do with the common law right? for never, my lords, forget the import of that term. Remember always that the common law right now claimed at your bar is the right of a private man to print his works for ever, independent of the crown, the company, and all mankind. In the year 1681, we find a bye law for the protection of their own company and their copy-rights, which then consisted of all the literature of the kingdom; for they had contrived to get all the copies into their own hands. In a few years afterwards, the Revolution was established, then vanished prerogative, then all the bye laws of the Stationers' Company were at an end; every restraint fell from off the press, and the whole common law of England walked at large. During the succeeding fourteen or sixteen years, no action was brought, no injunction obtained, although no illegal force prevented it; a strong proof, that at

[3 S]

that time there was no idea of a common law claim. So little did they then dream of establishing a perpetuity in their copies, that the holders of them finding no prerogative security, no privilege, no licensing act, no Star Chamber decree to protect their claim, in the year 1708 came up to parliament in the form of petitioners, with tears in their eyes, hopeless and forlorn; they brought with them their wives and children to excite compassion, and induce parliament to grant them a statutory security. They obtained the Act. And again and again sought for a further legislative security.

Thus, my lords, stands the pretence on the score of usage, of which your lordships have heard so much on one side the question. I come now to consider upon what foundation stand the prerogative copies; and these were in fact cases between co-patentees (for I must consider the Stationers' Company itself as a patentee of the crown) and no authorship right occurs here. The right in the crown is supposed to come either from purchase or contract; and our law argues from principles, cases, and analogy; but not a word of this in the judgment of the court; but the arguments of counsel are adduced to prove the point. The argument of counsel is a sorry kind of evidence indeed; in most cases it would be very dangerous to rely on it, but here it is such stuff as I am ashamed to mention. You have them at length in Carter: First, it is put on the topic of prerogative, next of ownership. 1. Henry the 6th brought over the printers and their presses, *ergo*, says the counsel, he has an absolute right to the whole art, and all that it can produce. 2. Printing belongs to nobody, and what is nobody's is of course the king's. 3. The king pays his judges, *ergo*, he purchases this right for a valuable consideration. 4. He paid for the translation of the Bible, therefore, forsooth, he bought a right to sell bibles. Away with such trifling! Mr. Yorke put it on its true footing. Ought not the promulgation of your venerable codes of religion and of law to be entrusted to the executive power, that they may bear the highest mark of authenticity, and neither be impaired, or altered, or mutilated? These printed acts are records themselves, are evidence in a court of law, without recurring to the original parliamentary roll. Will you, then, give this honourable right to your sovereign as such? or will you degrade him into a bookseller? In-

deed, had he no other title to this distinction, that could hardly be maintained.

But if this will not serve the purpose, recourse is next had to injunctions; they, it is said, have put the right out of doubt; nay, lord Hardwicke's name is triumphantly brought on the stage, and he is declared to have absolutely decided the point: no man, I am sure, can venerate his name (which will be dear to posterity as long as law or equity remain) more than I do. But this boasted case, like all the rest that have been produced, entirely fails in the proof; and when my lord chief justice reads his own note of what lord Hardwicke said upon the occasion, it appeared that lord Hardwicke's words had been twisted to an opposite meaning to what he intended. All the injunction cases have been ably gone through. I shall only add, in general terms, that they can prove nothing: they are commonly obtained for the purpose of staying waste, and the prevention of irreparable damage. They must, therefore, in their nature be sudden and summary, or the benefit of them would be lost before they are obtained, and they are granted though the right is not clear, but doubtful. The question, whether I am tenant for life or in tail, whether I can maintain my right against the devisee or the heir at law, may be discussed afterwards at leisure; but unless upon shewing a reasonable pretence of title you in the mean time tie up the spoiler's hands who is selling my timber, or ploughing my pasture, my remedy is gone, or comes too late to prevent the mischief. What, then, if a thousand injunctions had been granted, unless the Chancellor at the time he granted them had pronounced a solemn opinion, that they were grounded upon the common law? It would only come to this at last, that the right in question was claimed on one side and denied on the other; therefore till the matter was tried and determined, let the injunction go. Lord Hardwicke, after 20 years experience, in the last case of the kind that came before him, declared that the point had never yet been determined. Lord Northington granted them on the idea of a doubtful title; I continued the practice upon the same foundation; and so did the present Chancellor. Where, then, is the Chancellor who has declared *ex cathedra* that he had decided upon the common law right? Let the decision be produced in direct terms. It is amazing that we should have been

so long amused with this kind of argument from such vague authorities!

At length, my lords, having removed every stumbling-block that opposed our progress to the pure source of common law; having cleared the way of all those spurious, pretended authorities, which will not bear the test of a moment's serious examination, the question begins to assume its natural shape. Here, then, I feel myself upon my own ground, and I challenge any man to produce any adjudication, a precedent, a case, or any thing like legal authority on which this claim can be grounded. Does there appear a scintilla, a glimpse of common law under any of those different heads I have mentioned, and which have been so often repeated to us? For my own part, I find nothing in the whole that savours of law, except the term itself, Literary Property. They have borrowed one single word from the common law, and have raked into every store-house of literary lumber to find out how to apply it to the subject, and to deduce some principles to which it may refer, and be governed by.

And now what are they? What are the foundations of this claim in the English common law? Why, in the first place, say the respondents, every man has a right to his ideas. Most certainly, every man who thinks has a right to his thoughts while they continue his; but here the question again returns; when does he part with them? When do they become *publici juris*? While they are in his brain no one indeed can purloin them; but what if he speaks, and lets them fly out in private or public discourse? Will he claim the breath, the air, the words in which his thoughts are clothed? Where does this fanciful property begin, or end, or continue? Oh, say they, the ideas are marked in black and white, on paper or parchment—now, then, we get at something; and an action, I allow, will lie for ink and paper: but what says the common law about the incorporeal ideas, and where does it prescribe a remedy for the recovery of them, independent of the materials to which they are affixed? I see nothing about the matter in all my books; nor were I to admit ideas to be ever so distinguishable and definable, should I infer they must be matters of private property, and objects of the common law?

But granting this general position, we get footing but upon one single step, and new doubts and difficulties arise whenever

we attempt to proceed. Is this property descendable, transferable, or assignable? When published, can the purchaser lend his book to his friend? Can he let it out for hire as the circulating libraries do? Can he enter it as common stock in a literary club, as is done in the country? May he transcribe it for charity? Then what part of the work is exempt from this desultory claim: does it lie in the sentiments, the language and style, or the paper? If in the sentiments or language no one can translate or abridge them. Locke's Essay might perhaps be put into other expressions, or newly methodized, and all the original system and ideas be retained. These questions shew how the argument counteracts itself, how the subject of it shifts, and becomes public in one sense, and private in another: and they are all new to the common law, which leaves us perfectly in the dark about their solution? And how are the judges, without a rule or guide, to determine them when they arise, whose books and studies afford no more light upon the subject than the common understandings of the parties themselves? What diversity of judgments! what confusion in opinion must they fall into! without a trace or line of law to direct their determination! What a code of law yet remains for their ingenuity to furnish, and could they all agree in it, it would not be law at last, but legislation.

But it is said that it would be contrary to the ideas of private justice, moral fitness, and public convenience, not to adopt this new system. But who has a right to decide these new cases, if there is no other rule to measure by but moral fitness and equitable right? Not the judges of the common law, I am sure. Their business is to tell the suitor how the law stands, not how it ought to be; otherwise each judge would have a distinct tribunal in his own breast, the decisions of which would be irregular and uncertain, and various, as the minds and tempers of mankind. As it is, we find they do not always agree: but what would it be, where the will of right would always be the private opinion of the judge, as to the moral fitness and convenience of the claim? Caprice, self-interest, vanity, would by turns hold the scale of justice, and the law of property be indeed most vague and arbitrary. That excellent judge, lord chief justice Lee, used always to ask the counsel, after his argument was over, "Have you any case?" I hope judges will always copy the ex-

ample, and never pretend to decide upon a claim of property, without attending to the old black letter of our law, without founding their judgment upon some solid written authority, preserved in their books, or in judicial records. In this case I know there is none such to be produced.

With respect to inventors, I can see no real and capital difference between them and authors; their merit is equal, they are equally beneficial to society, or perhaps the inventor of some of those master pieces of art which have been mentioned have there the advantage. All the judges who have been of a different opinion, conscious of the force of the objection from the similarity of the claim, have told your lordships they did not know but that an action would lie for the exclusive property in a machine at common law, and chose to resort to the patents. It is, indeed, extraordinary that they should think so, that a right that never was heard of could be supported by an action that never yet was brought. If there be such a right at common law, the crown is an usurper; but there is no such right at common law, which declares it a monopoly; no such action lies; resort must be had to the crown in all such cases.

If, then, there be no foundation of right for this perpetuity by the positive laws of the land, it will I believe find as little claim to encouragement upon public principles of sound policy, or good sense. If there be any thing in the world common to all mankind, science and learning are in their nature *publici juris*, and they ought to be as free and general as air or water. They forget their Creator, as well as their fellow creatures, who wish to monopolize his noblest gifts and greatest benefits. Why did we enter into society at all, but to enlighten one another's minds, and improve our faculties, for the common welfare of the species? Those great men, those favoured mortals, those sublime spirits, who share that ray of divinity which we call genius, are intrusted by Providence with the delegated power of imparting to their fellow-creatures that instruction which heaven meant for universal benefit; they must not be niggards to the world, or hoard up for themselves the common stock. We know what was the punishment of him who hid his talent, and Providence has taken care that there shall not be wanting the noblest motives and incentives for men of genius to communicate to the world those truths and discoveries

which are nothing if uncommunicated. Knowledge has no value or use for the solitary owner: to be enjoyed it must be communicated. 'Scire tuum nihil est, nisi te scire hoc sciat alter.' Glory is the reward of science, and those who deserve it, scorn all meaner views: I speak not of the scribblers for bread, who tease the press with their wretched productions; fourteen years is too long a privilege for their perishable trash. It was not for gain, that Bacon, Newton, Milton, Locke, instructed and delighted the world; it would be unworthy such men to traffic with a dirty bookseller for so much a sheet of a letter press. When the bookseller offered Milton five pounds for his *Paradise Lost*, he did not reject it, and commit his poem to the flames, nor did he accept the miserable pittance as the reward of his labour; he knew that the real price of his work was immortality, and that posterity would pay it. Some authors are as careless about profit as others are rapacious of it; and what a situation would the public be in with regard to literature, if there were no means of compelling a second impression of a useful work to be put forth, or wait till a wife or children are to be provided for by the sale of an edition. All our learning will be locked up in the hands of the Tonsons and the Lintons of the age, who will set what price upon it their avarice chuses to demand, till the public become as much their slaves, as their own hackney compilers are.

Instead of salesmen, the booksellers of late years have forestalled the market, and become engrossers. If, therefore, the monopoly is sanctified by your lordships' judgment, exorbitant price must be the consequence; for every valuable author will be as much monopolized by them as Shakespeare is at present, whose works, which he left carelessly behind him in town, when he retired from it, were surely given to the public if ever author's were; but two prompters or players behind the scenes laid hold of them, and the present proprietors pretend to derive that copy from them, for which the author himself never received a farthing.

I pass over the flimsy supposition of an implied contract between the bookseller who sells, and the public which buys the printed copy; it is a notion as unmeaning in itself as it is void of a legal foundation. This perpetuity now contended for is as odious and as selfish as any other, it de-

serves as much reprobation, and will become as intolerable. Knowledge and science are not things to be bound in such cobweb chains; when once the bird is out of the cage—*volat irrevocabile*—Ireland, Scotland, America, will afford her shelter, and what, then, becomes of your action? His lordship concluded with several observations on the statutes of queen Anne, in which he took notice that the old copies were entitled to 21 years, and the new ones but to 14, and said, that if the legislature had intended to make the right perpetual, they would have taken care that the remedy should be so too.

Lord Chancellor *Apsley* prefaced what he was about to say, by declaring, that he had made the decree entirely as of course, in pursuance of the decision upon the right in the court of King's-bench, and that as what he had decreed, as a chancellor, was merely a step in the gradation to a final and determinate issue in the House of Peers, he was totally unbiassed upon the question, and therefore could speak to it as fairly from his own sense of it, as any one of the judges, or any of the lords present. He then entered into a very minute discussion of the several citations and precedents that had been relied upon at the bar, shewed where they failed in application to the present case; and one by one described their complexion, their origin, and their tendency; in each of which he proved that they were foreign to any constructions which could support the respondents in their argument; he was no less precise and full in exposing the absurdity of the authorities derived from the Stationers' Company, quoting several extraordinary entries to be met with in their books; among others, he said, that one Sibthorpe had entered a book there "the title of which," says the entry, "is to be sent hereafter;" and another member entered the name of a book, "about to be translated by him;" by which all the rest of the world were to be restrained, in the mean time, perhaps for ever, from translating the same. He then very fully stated the several cases of injunctions in the court of Chancery, produced several original letters from Swift to Faulkner and others, relative to the statute of queen Anne, and gave an historial detail of all the proceedings in both Houses upon the several stages of that Act, and the alterations it had undergone in the preamble and enacting clauses, all tending to shew the sense of the legislature, at the time of

passing it, to be against the right; and that they rejected the other Bills afterwards, drawn up chiefly by the advice of dean Swift, and the countenance of Mr. Addison, which were presented in the same spirit, and upon the same grounds; and concluded with declaring that he was clearly of opinion with the appellants.

Lord *Lyttelton** spoke in favour of authors; and, in opposition to the doctrine laid down by lord Camden, urged, that the science of literature, though not tangible, was nevertheless property; and that it must receive a very sensible shock from the reverse of the decree, should it unfortunately take place. He spoke very ingeniously on the subject; traced the origin of the arts and sciences from Greece to Rome, Arabia, &c., and at last seated them in Great Britain. He introduced a high panegyric on his present Majesty and the king of Prussia, under whose patronage they so much flourished; and represented them as the only crowned heads who were either men of learning themselves, or encouragers of literature.

* Thomas, second lord Lyttelton. He was born January 30, 1744. He succeeded his father in 1773. "With great abilities, generally very ill applied; with a strong sense of religion, which he never suffered to influence his conduct, his days were mostly spent in splendid misery; and in the painful change of the most extravagant gaiety and the deepest despair. The delight, when he pleased, of the first and most select societies, he chose to pass his time, for the most part, with the most profligate and abandoned of both sexes. Solitude was to him the most insupportable torment, and to banish reflection, he flew to company whom he despised and ridiculed. His conduct was a subject of bitter regret both to his father and all his friends." He died Nov. 27, 1779, in his 36th year. See *Brydges' Biographical Peerage*, vol. 2, p. 301.

"His death is said to have been very extraordinary. He supposed that he saw in a dream a vision of a young woman dressed in white who told him that his dissolution would take place in three days. The third day arrived, and his lordship, engaged in a convivial party of friends, observed jocularly that he thought he should jockey the ghost, a few minutes after which he was seized with a sudden faintness, and being removed to his bed, never rose again." *Lempriere*.

"When I mentioned Thomas, lord Lyttelton's vision, the prediction of the time of his death, and its exact fulfilment: *Johnson*. 'I heard it with my own ears, from his uncle, lord Westcote,' *Boswell's Life of Johnson*.

The Bishop of *Carlisle* made use of similar arguments with those of lord Camden against the property; and concluded by wishing, that an act might be brought to give authors and booksellers an equitable space of time for their works and no longer.

Lord *Effingham* rose last, and begged to urge the liberty of the press, as the strongest argument against this property; adding, that a despotic minister, hearing of a pamphlet which might strike at his measures, may buy the copy, and by printing 20 copies, secure it his own, and by that means the public would be deprived of the most interesting information. Lord Mansfield did not speak.

Ordered, That the Decree be reversed without costs of suit.

List of those noblemen who divided on the above question for reversing the Decree: dukes of Roxburgh, Bolton; earls of Denbigh, Gower, Sandwich, Spencer, Radnor, Jersey, Northington, Oxford, Abercorn, Loudon, Roseberry; viscounts Say and Sele, Weymouth, Falmouth; lords Camden, Ravensworth, Montague; bishops of St. Asaph, Litchfield and Coventry.—For confirming the Decree: dukes of Northumberland, Portland; marquis of Rockingham; earls of Carlisle, Fitzwilliam; viscounts Dudley, Torrington; lords Bruce, Lyttelton; archbishop of Canterbury; bishop of Chester.

*Proceedings in the Commons against the Reverend John Horne for a Libel upon the Speaker.**] February 7. Sir Edward Astley presented a Petition from Thomas De Grey, esq., lord of the manor of Tottington, in the county of Norfolk, and of several owners and proprietors of lands within the parish of Tottington; setting forth, That there are, within the said parish, several common lands, &c. belonging to the petitioners, which, in their present

* A very incorrect account of the above Proceedings has recently appeared in a work intituled, "Memoirs of John Horne Tooke, by Alexander Stephens, esq. of the honourable society of the Middle Temple." As the author professes to have received his information from Mr. Horne Tooke himself, this is not a little surprising. It will, however, be seen, upon a slight comparison of Mr. Stephens's narrative, with Mr. Horne's Letter to sir Fletcher Norton and also with the Journals of the House of Commons, that the Dialogue, given in volume 1, p. 424, between Mr. Horne and Mr. William Tooke, minute and circumstantial as it is, could never have taken place. (A. D. 1813.)

state, are inconveniently situated, and incapable of any considerable improvement; and that, if the same were divided, and allotted to all persons interested therein, the same would be greatly improved: and therefore praying, that leave may be given to bring in a Bill for dividing and inclosing the said lands.—Leave was accordingly given.

Sir Edward Astley also presented a Petition from William Tooke, esq., a proprietor of lands in the parish of Tottington, taking notice of the application in the preceding Petition, and setting forth, That the petitioner, and a great part of the owners and proprietors of lands within the said parish, have not consented to the above application, and which, they have reason to believe, is solely intended for the great gain and emolument of Thomas De Grey, esq., who hath already made many encroachments upon the commons of the said parish, in violation of the lawful rights and estates of the petitioner and other owners of lands, which encroachments, the petitioner apprehends, will be urged as a claim to a much larger proportion, in the proposed allotments, than the said Thomas De Grey would otherwise be entitled to; and that the petitioner is informed, no previous public notice has been given for a meeting of the proprietors and owners of lands within the said parish, as is usual on similar occasions; and therefore praying, that a sufficient and convenient time may be granted to the petitioner, and the other owners and proprietors of lands within the said parish, to be prepared and ready to make good their objections to the said Petition; and that the disputed rights of commons, between the said Thomas De Grey, and the petitioner and other owners of land within the said parish, may be first duly settled and determined by a jury, according to the laws of the land, before leave be given to bring in a Bill; and assuring the House, that there shall be no delay, on the part of the petitioner, in bringing the said encroachments and usurpations of the said Thomas De Grey, to a speedy, final, legal issue.—Ordered to lie on the table.

Feb. 10. Sir Edward Astley presented the Bill to enable Thomas De Grey to divide and inclose the common fields, and lands within the parish of Tottington. On the motion, that it be read a first time, Mr. Sawbridge moved, that Mr. Tooke's Petition might be again read. It was read

accordingly. The Speaker then put the question, that the Bill be now read a first time.

Mr. *Sawbridge*. The Bill now proposed to be read has been, in a very unprecedented manner, brought into the House; a public notice by advertisement, usual on such occasions, being omitted. This, with the rights of several intitled to common on the lands intended to be inclosed, as well as these rights being now in a course of legal issue, make it, in my opinion, extremely improper for the House to interfere. I shall therefore move, that the word 'now' be left out, and 'this day six months' be put in its stead.

Mr. *De Grey*. The gentleman who has caused this counter petition to be presented, was informed by me, before he purchased the estate on which he founds his present claim, that the lands in question were meant to be enclosed. His property does not amount to more than 40 acres, nor that of all the rest to above as much more; whereas nine-tenths of the whole parish belong to me. I am charged with encroaching on other people's property, for which I can safely affirm there is not the least foundation. If there be a syllable of truth in it, I am willing to forego every advantage I might derive from the Bill. It is an attack upon my honour and reputation, which, if the facts stated be true, must indeed be stripped to the very stump.

Mr. *Sawbridge*. I had not the least design to reflect on the hon. gentleman when I made the motion, nor can I see the force of the conclusion he would draw from it. I never understood, that when gentlemen differed about property, and trusted their claims to legal decision, that either party suffered in their characters, whatever they might when too frequently engaged in litigations and disputes.

The Bill was read a first, and ordered to be read a second time on the 22nd.

Feb. 10. Mr. *Sawbridge* presented another Petition from Mr. *Tooke*, setting forth, That he having been informed, that application was intended to be made to inclose lands in the parish of Tottington, and apprehending that such inclosure would be prejudicial to him, he has already petitioned the House relative thereto; and that the petitioner is informed, that a Bill for such inclosure has been presented: and therefore

praying, that he may be heard, by his counsel, upon his said former Petition, against the said Bill, and that the same may not pass into a law.—Ordered to lie upon the table, until the Bill be read a second time; and that the petitioner be then heard, by his counsel, against the said Bill, if he thinks fit. Also, that counsel be admitted to be heard, at the same time, in favour of the said Bill, against the said Petition.

Feb. 11. The Speaker did not take the chair till after three o'clock, although the House was very full, upwards of 300 members being present.

The *Speaker* made a short apology for not taking the chair sooner, and craved the indulgence of the House to be heard for a few moments.

I am very loth, he said, to take up the time of the House with any matter that relates only to myself; but I have been charged with a crime, which, if true, I should be unworthy of the honourable seat I now occupy, or, indeed, of sitting within these walls. If it was only personal scurrility, or even general charges, I should not trouble this House; I should look on them equally unworthy your notice and mine; but it relates to a matter which is supposed to have passed here, and that, too, in the very honourable station I now fill. What makes it still more serious is, that it refers to a series of facts, which, as connected with my present situation, could not have happened without my knowledge, and which, I can affirm solemnly, I am totally a stranger to, further than the general transient knowledge I may have of matters of a similar nature. It is a letter in a public paper of this day signed "Strike, but Hear,"* published by H. S. Woodfall.

* The following is a copy of the said Letter:

"For the Public Advertiser.

"To Sir Fletcher Norton, Knight, Speaker of the House of Commons.

"Sir; it was the complaint of a predecessor of yours of bullying memory, that 'the poor abuses of the times wanted countenance.'—You are determined that, as far as your art and power can extend, (and in your situation they extend very far) no similar complaint shall be made in our days. Almost every passage of your life would justify me in this assertion. But I am led to it more particularly at present by your conduct in the House of Commons last Monday, in most scandalous violation of the

Without entering into the substance of the whole of its contents, it charges me with a predilection for Mr. De Grey, in the progress of the Tottington inclosing Bill; than which nothing could be more remote from my intention. I do not so much as

dangerous trust reposed in the Speaker by that too easy and too inattentive House.

"Perhaps, Sir, you may be at a loss to guess what circumstance I allude to: for God only who knows (and indeed seems alone to regard them) can tell how many tricks of the same kind you are daily practising. I will therefore inform you. I mean your shameful behaviour to sir Edward Astley, and to the whole House of Commons, when he would have presented two petitions to the House. I say, when he would have presented them to the House: for you contrived to prevent that, and to have them presented only to yourself. Though you need not information, I will mention the circumstances: for, though I address this letter to you, it is evident from its contents that my intention is to expose you by informing others.

"This language, sir Fletcher, does not guard nor dissemble. I mean to give you every advantage by my words: for I am desirous to know, though at my own peril, at what stage of political destruction this country is arrived; and whether those who dare be guilty of the most infamous practices, dare yet by their own voluntary act invite their public notorious canvass. Montesquieu has somewhere observed that nations often remain free by the spirit, long after the principles of their constitution are destroyed. That our constitution and all the remedies it afforded us against oppression are gone, I know. Now, Sir, I want to see, by the steps you may think proper to take with this libel (for I acknowledge it such, if truth can be so) whether you imagine that the spirit is fled also; and that the time is now come when government may pull off the mask, and tell us plainly that they will no longer indulge us with the privilege we have for some time past enjoyed only at their discretion, the miserable privilege of Perillus's tortured, to complain.

"But, to the fact,

"On the 6th of last month, Mr. Tooke, a gentleman of Norfolk, was informed by a note from Mr. Edward Barwell, one of the clerks of the House of Commons, that he expected shortly to receive from Mr. De Grey, one of the members for Norfolk, a petition to the House of Commons for leave to bring in a Bill for inclosing, &c. certain common lands in a parish where Mr. Tooke had an estate. Which petition Mr. Barwell promised Mr. Tooke should see before it was presented. This was the first notice of an intention of any application to parliament.

"On Sunday the 23rd Mr. Tooke received, at his house in Surrey, a note from Mr. Barwell

know the gentleman alluded to, further than seeing him in this House; and for his brother the Chief Justice, who is one of the parties to the Bill, I am sure I have not the least personal intercourse with him. I can with justice say, that as well

inclosing a copy of the intended petition; in which the chief justice likewise joined. This petition was to be presented the very next day.

"At this short notice Mr. Tooke came to town on Monday morning early; prepared hastily a counter-petition; and waited on sir Edward Astley, his representative, requesting him to deliver it.

"Sir Edward, with his usual regard to justice, impartiality and honour, consented to deliver it; in the same manner as he had previously consented to deliver his colleague Mr. De Grey's petition: that so the House might take them both into consideration together. But not presuming himself sufficiently acquainted with the little forms and ceremonies of the House, he informed the Speaker of the circumstance; and desired to know whether he (sir Edward) could with propriety present two petitions which were directly opposite to each other. Sir Fletcher affected to think it very unusual, improper and extraordinary. And indeed it is probable sir Fletcher did think it extraordinary that there should still be left in the House a man so impartial, just and disinterested as to present two petitions affecting the property of his constituents, without taking part on either side.

"Sir Edward however persevered in the line of his duty, and very properly communicated to the relations of Mr. De Grey (who was himself in Norfolk) the contents of Mr. Tooke's counter-petition; that they might not be surprised even by him whom they had meant to surprize, nor have any pretence to reproach sir Edward with being deficient towards them even in the minutest punctilio.

"When Mr. De Grey's relations saw Mr. Tooke's counter petition, they were most probably shocked themselves at the glaring light in which the injustice of their own attempt was placed by it. They therefore withdrew their petition; and soon after framed another. And on the 2nd of this month, Mr. Tooke was favoured by Mr. Barwell with a copy of the new petition; which was directed to be delivered on Friday the 4th.

"Mr. Tooke was therefore again forced, at this short notice, to come to town and prepare a new counter-petition. Accordingly on the Friday sir Edward would have presented the two petitions; but the Speaker stopped him, and was then of opinion that petitions of that particular kind should be presented in a fuller House. Sir Edward acquiesced to the reason; and the following Monday, the 7th, was fixed on by Mr. De Grey for delivering his petition, declaring that he would himself come from Norfolk, and be present at its delivery. Ac-

on this, as every other occasion of the same kind, I have ever acted with the strictest impartiality; nor does any thing rest on my mind relative to the matter, but that I thought yesterday, as it was litigated, counsel should be permitted to be heard at

cordingly on Monday last sir Edward offered them both together to the House, with that modesty which, though it does him honour, yet gives such men as sir Fletcher Norton the advantage he took of it.

" 'This is very extraordinary,' said sir Fletcher; 'Could the gentleman ask you to deliver his counter-petition?' 'Did the gentleman ask you to do it?' 'Oh, oh! Well, it is very extraordinary.' 'You must bring them up then. But bring the first petition first.'

" Mr. De Grey's petition was then received; and some members crying out, 'Hear, hear,' and one part of the House beginning to give attention; the Speaker turned round to them, and said aloud, 'It is only a common petition for a common inclosure;' upon which wilful falshood and premeditated trick of the Speaker, the House (as is usual when mere matters of course are going forward, only preparatory to the business of the House) began talking again, and heard no more. The moment Mr. De Grey's Petition was read, the Speaker instantly muttered in a low voice, and as hastily as possible, 'All you that are for the question, say Aye; all you that are against it, say No; the Ayes have it. Now bring up the other.'

" Mr. De Grey's Petition being thus smuggled upon the House by the Speaker, and the whole business decided by him, (without one single member having said Aye or No; and without any one of them being aware of it or knowing it) the counter petition was then read over (such is the Speaker's regard to forms and common sense) against the passing of that question which was already passed. And this petition against the doing what was already done, was nevertheless ordered by the Speaker to lie upon the table. Very good sense and great honesty in your occasional pretended forms, sir Fletcher!—" 'You cannot present a counter-petition first. It is improper to give the petition and counter-petition together: and it is too late to give the counter petition afterwards.'—" Indeed! this puts one in mind of the witty advice of sir F. Bacon concerning the proper age to marry: 'A young man not yet; an old man never.'

" But, sir Fletcher, you must answer for this conduct to the House, if their spirit is equal to the surprize and indignation of some of the members who knew the contents of the two petitions, and intended to speak to them; but who by their surprize and modesty were prevented (when they found too late what was done) from calling the Speaker to an immediate account for his conduct.

[VOL. XVII.]

the second reading. As to the rest, I trust to the recollection of the gentlemen immediately concerned in the transaction.

Sir *Edward Astley*, who presented both the petitions, spoke for a considerable time, but so low, that it was impossible

" The petition of Mr. De Grey and his brother the chief justice (whose conduct in a series of tricking and high handed injustice shall be hereafter fully examined) was thus smuggled through the House on Monday the 7th. The Bill will be read for the first time on Thursday the 10th, for the second time on Monday the 14th, and finally passed on Monday the 21st of this month.

" And thus, with the connivance of such a Speaker, may the rights and property of any private gentleman in this kingdom, be, in a fortnight, transferred to another by the House of Commons even without its own knowledge; whilst the lawful, unoffending owner may be on a voyage to the continent, or even on a journey to Yorkshire, and find on his return his lands and property exchanged and transferred; without having any notice or suspicion of the attempt, till after it has taken place. These are the facts.

" And now, sir Fletcher, I return to you. Do you think it improper that the representative of a county, having, according to his duty promised to present a petition for one person, should likewise present a petition for another; and thus, as far as he can, give both an opportunity of equal justice, by affording his weight and countenance to neither, till the merits shall have been heard, and justice determined him?

" What, not if he is totally unacquainted with the merits of either petition?

" What, not if the first requires some benefit, in which another man's property is concerned, to be granted him by parliament (who are the guardians of rights, not the dispensers of favours or the deciders of particular causes;) whilst the second petitioner asks no favour, but barely requests that his property may not be taken from him?

" What, not if the representative has reason to suspect that the first petition may be unreasonable?

" What, not if he even knows that the first request is an injustice?

" Since when, sir Fletcher, has the first applier had this advantage, in your opinion, over all that come after? It is well known that after having received fees for your venal tongue, when it was openly let out for hire, you did not always faithfully observe this rule.

" But you say it is unusual and extraordinary! You know the contrary, and that it is frequently done; almost every sessions; certainly in the last, and in the present. You know, not to mention others, that the petitions concerning the Selby navigation, now depend-

[3 T]

to hear distinctly what he said. He however denied all the facts charged in the letter, and concluded with asserting, that there could not be the least partiality in the Speaker, as the whole business was transacted in the usual form.

Mr. *Sawbridge*. The only knowledge I had of this business was on the day when the hon. gentleman who spoke last presented Mr. De Grey's petition, who was at the same time solicited to present that from Mr. Tooke. I then thought it somewhat extraordinary, that the same person

ing, were delivered for both sides by the same person.

"But a grosser falshood than this was contained in your artful question to sir Edward, — 'Did the gentleman ask you to deliver his counter petition?' You knew he did; and that sir Edward not only told you so, but consulted you upon it. How dared you to insult the honest member and mock the House, whilst you were ensnaring and prejudicing them by such a question? If sir Edward had not consulted you upon it before, yet he had told you, the very preceding moment, that he was desired so to do. But if he had not said so, was the information necessary? Do members of that House present petitions in other men's names without being asked by them? And yet had you the assurance twice to repeat the same false question with a sneer. Perhaps, with your usual modesty, of chicane, you will answer that a question cannot contain a falshood. Let this instance confound such mean subterfuge: your question conveyed intelligibly to those who heard it, that you knew not the fact of which you asked to be informed. And the real motive of your question was, to cast beforehand a ridicule and prejudice both upon him who made and him who presented the counter-petition.

"But your last declaration was a falshood, whose motive should degrade you from the chair. You knew the substance of both the petitions, and the uncommon circumstances which attended them. And because you knew they were not common, and were fearful that their uncommonness should alarm the House; in order to defeat the counter-petitioner of even a hearing, and to prevent the attention of the House, you had the baseness to declare aloud, that 'It was only a common petition for a common inclosure.'—If so, why did you on Friday direct sir Edward to delay it for a fuller House?

"However, your tricks succeeded. The House took their Speaker's word: heard not a tittle of what passed: and, as a mere matter of the most common and trifling form, suffered you to pass (by yourself, without their knowing even that the question was put, and without one single Aye or No being given on the occasion) a question concerning private pro-

should present both, as one prayed for the bringing in a Bill which the other prayed should not be brought in. As to the part I took yesterday in this business, it was merely on an application made to me the preceding day, on account of the member's absence in the country who was to have spoke to it. On neither day did I perceive any foundation for the charge now made. If I had imagined that the hon. member against whom the letter alluded to is directed, had been guilty of

perty, without the smallest pretence of public benefit or convenience; except perhaps that as the consequence to Mr. De Grey will be near a thousand a year profit, it may save the ministry the expence of a pension; and serve as a precedent to confer similar rewards on the creatures of the court at the expence of the honest country gentlemen who oppose them.

"Sir, I will venture to say that a Speaker who knew the circumstances, as you did, would have been a traitor to the trust reposed in him by that House, if he had suffered such an affair to pass over without calling for their attention to what was doing. But if, as you did, he should divert that attention, which they were ready and beginning to give; and should by an explicit, wilful falshood, like yours, direct them not to attend to it;—such a Speaker should be punished with more than degradation. Although by so knavish a management he had contrived, contrary to justice, to confer a favour on a creature of administration, the brother of a chief justice, and a connection of lord Boston.

"Sir, I am free to acknowledge that such language as this I hold to you, and in such a disreputable channel, should not in a policed nation be suffered even to a private individual, much less to the first great officer of the people. But, alas! we are not a policed nation; for the laws have lost their edge towards the guilty, and are no longer the refuge of the innocent. You are not the officer of the people; for though you bear that respected and awful name, yet yourself and all others know that you owe your situation to the corrupt influence of that accursed plan of power, which has left us no right but that of lamentation. This right I will freely exercise in this country, until the tongue shall cleave to the roof of my mouth. All sorts of punishment, I know, are at the discretion of your employers; and, according to their fancy or policy, they will, when they please, inflict it. But I shall think myself well rewarded, if I can only awaken from their lethargy some few honest members of the House of Commons, to watch over the wickedness which you are daily perpetrating under the pretence of form.

"And whatever happens to myself, I will with the patient Greek of old,

"STRIKE—but HEAR."

any partiality, I should not in the least have hesitated to have complained to the House against him; but I never have had the least foundation for any such complaint, as he has always acted with all the candour I could possibly desire.

Col. Jennings, and sir John Turner, spoke after Mr. Sawbridge, and bestowed on sir Fletcher's impartiality the highest encomiums.

The Speaker. The only motive which induced me to give the House this trouble being now fully answered, I have no wish that any further notice should be taken of it; the evidence of my innocence, and the approbation of my conduct, being all I had in view when I took up this business; that being fully attained, I am perfectly easy as to the scurrility and falsehoods contained in this scandalous libel.

The House was now silent for the space of two minutes, and the order of the day was going to be read, when

Mr. *Herbert* rose, and said, that an attack of such an atrocious nature upon the character of their Speaker was not to be passed over without manifestly exposing the privileges of the House to the utmost contempt. He therefore moved, "That H. S. Woodfall, the printer of the Public Advertiser, do attend this House on Monday next."

Sir *Joseph Mawbey* said, he should dissent from such a motion, not through any disrespect to the Speaker, whom he thought perfectly innocent of the charge against him, but because it would be productive of much disturbance, and the same tumults that a like order produced a few years past would be all revived again; that for his part, he thought the letter was written with a view to hurt the liberty of the press, and set his Majesty again at variance with the city, more than from any spleen to sir Fletcher. That as sir Fletcher seemed satisfied with the favourable opinion of the House, he thought the motion was needless; if sir Fletcher was not satisfied, there were our courts of law open to do him justice.

Mr. *Charles Fox* said, he agreed with the worthy baronet that the letter was written with an intent to hurt the liberty of the press, for it was full of such flagrant falsehoods, that no man of sense, who read it, could put the least belief in it; he likewise agreed that it would be productive of bad effects; but, was any member of that House, much more the Speaker, to be libelled in so gross a manner, and be

obliged to descend to a law-suit? No! he hoped they would always preserve their prerogative, and protect themselves, for it would be an absurdity to appeal to an inferior court for protection. He asked, would the court of King's-bench apply for protection to the court of Common Pleas? He observed the hon. baronet dreaded the consequences arising from the motion; he said, because the House were so favourable to the printers the last time, they imagined they had a right to libel any member, and if the printers were suffered to go on at this rate, they would next claim, as one of their privileges, the right of libelling whom they pleased; that we were now warm in the matter, and therefore it was the properest time to discuss and go through with it.

Lord *North* said, he was very well aware of the consequences that would arise from the motion; but the liberty of the press had got to such a height, that some measure must be thought on; that he supposed the printer would not obey the summons; they must then send their messenger to take him into custody; some city alderman would take up the messenger, and the next step would be to take up the alderman; that the alderman would not mind going to confinement for two or three months, as it would make him popular, and establish him a patriot; but he hoped the conduct of the citizens to the last aldermen confined on account of the printers, would be a caution to any alderman espousing their cause for the future; that one indeed preserved their esteem, but the other, (Mr. Oliver) whom he would be bold to say was as honest and able a magistrate as any in the city, had been made the public butt for ridicule, by the very citizens for whom he had suffered confinement; that the courts of law had given it as their opinion, that the Speaker's order to take up a printer was legal and sufficient, and he hoped this matter would now be settled, as it must be done, and the sooner the better, otherwise no person's character was safe.

Mr. *Sawbridge* said, he did not agree with the hon. gentleman (Mr. Fox), that as we were now warm in the affair, we ought to go through with it; he thought the most proper time to discuss such business would be when we were cool; that if sir Fletcher was not satisfied (which till Mr. Herbert made his motion, he thought he was) he would be sure of redress at law, for we had lately had an in-

stance of it. The first lord of the Admiralty had obtained 2,000*l.* damages from the printer of the London Evening Post for a libel against him; that as to an alderman wishing to gain popularity by confinement, he could say nothing to; but concluded his speech with these words: If this business should come before me, I will dismiss the printer. I have no hopes of gaining popularity or gratuity by so doing; I cannot bear confinement; I love liberty, and if I should be taken into custody, I should have this consolation, that I am suffering for the good of my country.

He was replied to by Mr. Jenkinson, who spoke nearly the same as lord North had done.

Mr. *Dowdeswell* then said, the noble lord imagined the printer would not obey the Speaker's summons: it was his opinion the printer would; and suppose he should inform them the author of the letter was Mr. Wilkes, what would they do to him? why, nothing. That he had a great esteem for the liberty of the press, but he thought that liberty was greatly abused, and hoped to see some able regulations made in it, but not the liberty destroyed; that he plainly foresaw, unless some proper methods were taken to correct those abuses, the legislature would be obliged, in its own defence, to destroy it entirely, let what would be the consequence.

Sir *W. Meredith* said, the author being given up should not exculpate those dark and infamous incendiaries, printers, who kept their presses open, and were glad of an opportunity to stab any man's character, so that it would make their paper sell; that he looked upon printers to be the most libellous and unworthy set of men we had. Mr. Herbert's motion was going to be read, when

Mr. *Dempster* rose and said: We are talking of preserving our power; let us consider of what our power consists: is it not the power of the people? Can we destroy their liberty without destroying our own? And I look upon this motion to be levelled entirely at the greatest of blessings we enjoy, the liberty of the press; a liberty, Sir, that is the means of our public money being expended so well as it is; it keeps great men honest through fear of being exposed; and those that oppress the people now, would oppress them ten times more, were it not for the censure they are liable to through this channel: the liberty is abused i own; but I think before such a motion was made, it would have been pro-

per for the House to come to a resolution of your innocence, and let it be recorded on the Journals. I have no doubt, Sir, of your innocence, and the letter alluded to being a libel; but I think we are too precipitate in our proceedings.

Mr. *Ward* said, it was an idle notion the city of London entertained, that the Speaker could not command them to appear. He asked, what were their privileges more than the city of Worcester, or any other city? Had they not lately had an instance of the Speaker summoning people from Worcester, and had they not attended? He said, he should like to have this matter finally determined, whether they had an authority in the city or not. If their power was to be restrained, he would say to them what Oliver Cromwell said to those that filled their seats in his time, 'You are no parliament.'

The House was moved, That the entry in the Journals, of the 20th of November 1751, touching the Proceedings in relation to Alexander Murray, esq. might be read. And the same being read accordingly, the said motion was, with leave of the House, withdrawn.

Resolved, *nem. con.* "That the said Letter to sir Fletcher Norton is a false, malicious, and scandalous Libel, highly reflecting on the character of the Speaker of this House, to the dishonour of this House, and in violation of the privileges thereof."

Ordered, That H. S. Woodfall, printer of the Public Advertiser, do attend this House upon Monday.

Feb 14. The order of the day being read for the attendance of H. S. Woodfall; and the House being informed that he attended accordingly; he was called in; and "The Public Advertiser, Friday, February 11, 1774," being shewn to him at the bar, he confessed that he printed and published the letter therein contained, addressed to sir Fletcher Norton, knight, Speaker of this House: he added, "I received the letter from Mr. Horne. I was the more induced to believe the contents true, because I saw the copies of two petitions, the one signed Thomas De Grey, esq., the other William Tooke, esq. I did not read the former part of the letter, which neglect will, I hope, be imputed to that hurry which the nature of my business subjects me to."

The Speaker asked, if that was all he had to say in his defence? He replied,

"During the course of 20 years in which I have been in business, I never before incurred the displeasure of this House. I have voluntarily obeyed the summons, and throw myself upon the mercy of the House."

He was then interrogated by a member, whether he knew Mr. Horne's Christian name? He answered, "John." Whether Mr. Horne was a clergyman? His reply was, "He is deemed so." He was questioned as to the place of Mr. Horne's residence, and the profession he followed? He answered, after some hesitation, "That Mr. Horne lived, he believed, at Brentford, and officiated as curate there." He was then ordered to withdraw.

Mr. *Herbert*, after expatiating upon the enormity of the crime, the atrocity of the Libel, and the necessity of maintaining the privileges of the House inviolate, moved, "That the said Henry Sampson Woodfall, having printed and published a Letter, addressed to sir Fletcher Norton, knight, Speaker of this House, in *The Public Advertiser* of Friday last (which letter this House hath resolved, *nem. con.* to be 'a false, malicious, and scandalous libel, highly reflecting on the character of the Speaker of this House, to the dishonour of this House, and in violation of the privileges thereof,') is thereby guilty of a breach of the privilege of this House." This Resolution was agreed to *nem. con.* After which Mr. *Herbert* moved, "That the said H. S. Woodfall be, for his said offence, taken into the custody of the Serjeant at Arms attending this House."

In opposition to this motion it was asked, why they would send the printer into confinement? Had he not obeyed their summons, and given up the author, which was as much as a man could do? A gentleman declared himself an entire stranger to the printer, and said, he never wrote a paragraph in his life, but was sorry to say, there were many members in that House, who, at times, wrote as scurrilous libels in the public prints, as the one in question, and the most inflammatory paragraphs, and yet some of those persons would possibly now declaim against it. Did they mean to engross all the libelling, lying, and slandering to themselves? If they punished this man, they would never find another printer obey their summons, for the utmost they could do would be to confine him, if he refused to obey their orders; that he thought by encouraging the printer, they might dis-

cover the authors, and thereby punish those who were guilty.

Mr. *Sawbridge* said, that the House was now attempting to usurp an authority, which, in his opinion, they had no right to do; that according to his ideas of the law, this proceeding was directly opposite to *Magna Charta*; that the first time of the House assuming this authority, was in the reign of that despot queen Elizabeth, who had a complaisant parliament, that would punish any person she took a dislike to. The next attempt was made in the reign of king Charles, and he imagined they would be sorry to quote precedents from his reign; that the most sanguine for the power of the House would not allow it went farther than imprisoning the offender for the remainder of the session; that printers would not mind imprisonment three or four months, as it would possibly be the making of them, for the public would support them, not as libellers, but men who had been falsely imprisoned; that the House had no right to form themselves into a court of criminal judicature; there was scarce a person among them, but was prejudiced in favour of what they were contending for (the privilege of the House), and therefore were not fit persons to be judge and jury in their own cause; that if this cause was to come into the court of King's-bench, and any of the members were to be on the jury, the printer would have a just right to strike them off as prejudiced persons; that by punishing the printer, they would increase the number of libels: for during the eight months the parliament did not sit, and as it appeared the courts of law had no right to interfere, the press would teem with the most scurrilous abuse, knowing they could not be hurt: they would then have some reason to restrain the liberty, which he imagined was what they aimed at.

Mr. *Charles Fox* said, he was not against shewing lenity to any man; but to a person who had been proved guilty of such an atrocious crime, he thought committing to the Serjeant at Arms was not sufficient: he should therefore move that he be committed to Newgate, as the proper place where offenders should be sent to, though hints had been thrown out that the sheriffs would not admit him; that the printer, to shew you how much he regarded the Speaker's order, had, on Saturday morning last, printed verbatim the Resolutions of the House. He then moved his amendment, by leaving out the words, "taken

into the custody of the Serjeant at Arms attending this House," and inserting the words "committed to his Majesty's gaol of Newgate" instead thereof.

Sir *Joseph Mawbey* said, he thought the printer had a right to print the Resolutions of the House; that the public had a right to know what was going on within those walls; that no person ought to dread the debates of that House being given in the public papers more than himself, as he was often guilty of absurdities; that himself had been dealt with pretty freely, but not so much, he believed, as the noble lord (North), yet he felt no kind of resentment against the printer; it was the author that was culpable.

Sir *W. Meredith* said, he had observed the debates given in the papers, and they were frequently false; for the persons who gave them, if they had a mind to blacken any person's character, could easily do it; that he had often seen the noble lord (North's) speech greatly misrepresented, and he sincerely wished a stop might be put to their being given.

Lord *North* said, it was true he could not recollect what he said on Friday last, but he was certain he meant no harm to the liberty of the press; that he thought the press was on a very good footing, as it was at the printer's peril what he published; yet he thought the printers more culpable than the authors; for if they did not keep open shops for any wretched and malevolent scribbler, we should have none of the abuse we now had; that he was sorry to hear the hon. gentleman (Mr. C. Fox) mention, that hints were thrown out of what the Sheriffs would do; he hoped there were no persons who would dispute the power of the House; that he should therefore move that the printer be committed to the Gatehouse, as he thought it was highly imprudent to force themselves into a contest with the city; it would come on soon enough of itself, if they were refractory; that he should have had no objections to the first motion, if a precedent could be found where a libeller was committed to the Serjeant at Arms; that as to shewing lenity, he had no objections, if the printer would afterwards petition; but it was necessary for the honour of the House, that he should be committed to some gaol.

Captain *Phipps* said, he was surprised to hear the word honour mentioned in the House, he thought it had been discarded; he knew of no honour they ought to con-

tend for, but the honour of doing the duty of their constituents; he said, if they acted consistently, they need never be afraid of their conduct being arraigned, but he was sorry to say they had lost the confidence of the people.

Mr. *C. Fox* said, we had not lost the confidence of the people by the affair of the Middlesex election, as was foolishly thought, but by suffering with tameness the many insults that had been offered to the sovereign, and to the House; that had he his will, those aldermen, and others who presented their remonstrances to the throne, should have been taken into custody; that a few years back they sent two aldermen to the Tower, but suffered a paltry printer, J. Miller, to hold them in contempt: that he had not yet obeyed their summons, and he supposed never would; that it was by these means we lost the good will of our constituents; but he hoped we should now prove, that no man in the kingdom, the House of Peers excepted, had a right to disobey the order of that House; that if they had a right to summon people for information, they had a right to summon them for any thing.

Governor *Johnstone* spoke much in favour of the printer; said, this matter seemed to be concerted, as they had put up with much greater insults than the present.

Mr. *Dempster* said, the House had owned the greatest power they had was committing to prison, and as Woodfall had not been guilty of the highest offence, why should he suffer the greatest punishment? That as to printing the debates, he constantly read Woodfall's paper, and seldom found any thing of their proceedings in it; if he wanted to see the debates, he generally looked at some other.

The other speakers for Mr. Woodfall were, Mr. Mackworth, sir Edward Astley, and Mr. Van. Against him, general Conway, sir T. Clavering, col. Burgoyne, the Attorney General, &c. The other part of the debate was only concerning the privilege of the House, whether they had a right to commit to the Serjeant at Arms, Newgate, or the Gatehouse. A number of precedents were produced of people being committed to all the above places, but not for the like offence.

Mr. Fox withdrew his motion; lord North moved his Amendment; and the question being put, That the words "taken into the custody of the Serjeant at Arms attending this House" stand part of

the question; the House divided. The Yeas went forth.

Tellers.

YEAS	{	Sir Edward Astley	-	}	152
		Mr. Phipps	- - -		
NOES	{	Lord Lisburne	- -	}	68
		Mr. Charles James Fox			

So it was resolved in the affirmative.

Another Amendment was proposed to be made to the question, by adding, at the end thereof, the words "the said H. S. Woodfall having, at the bar of this House, confessed that he is the person who printed and published the said letter, and having informed the House from whom he received it, and having submitted himself to the mercy of the House," which was carried.

Ordered, That the reverend John Horne do attend this House upon Wednesday next.

February 16. The order of the day was then read for the attendance of the reverend John Horne. The Speaker desired that his name might be called in the lobby, to know if he attended. His name was accordingly called, but he did not attend. The messenger was then ordered in who served Mr. Horne with the summons. A copy of the summons was read, as follows:

"Lunæ 14^o die Februarii, 1774.

"The House of Commons having on Friday last resolved, *nemine contradicente*, that a letter in a newspaper (intituled, The Public Advertiser, Friday, February 11, 1774, and purporting to be printed for H. S. Woodfall, No. 1, the corner of Ivy-lane, Paternoster-row) addressed to sir Fletcher Norton, knt. Speaker of the House of Commons, reflecting on his character, and on his conduct as Speaker of this House, in relation to an application to the House by petition for an inclosure of lands in the parish of Tottington, in the county of Norfolk, is a false, malicious, and scandalous libel, highly reflecting on the character of the Speaker of this House, to the dishonour of this House, and in violation of the privileges thereof; and the said Henry Sampson Woodfall having at the bar of this House this day informed this House, that the said letter was delivered to him by the reverend John Horne:

"Ordered, That the said reverend John Horne do attend this House upon Wednesday next.

"J. HATSELL, Cl. Dom. Com."

The messenger was then desired to give an account of what passed between him and Mr. Horne when he delivered the summons, and where he found Mr. Horne. He said, "he went to Serjeants-inn, in Fleet-street, on Monday evening, about a quarter past eleven o'clock, to a Mr. Tooke's; that he asked the servant, if the reverend Mr. Horne was there?" The servant answered, "Yes." The servant desired to know his name? He replied, "Mr. Horne did not know him, he wanted to speak to Mr. Horne concerning some business of the House of Commons." The servant then desired him to walk into a parlour where Mr. Horne was sitting; "that he then took the orders out of his pocket, and gave one to Mr. Horne, and asked him if he was the reverend Mr. John Horne?" Mr. Horne said, "my name is John Horne, but there are several John Hornes in London besides me." When he looked at the letter, he said, "I fancy there is some mistake in this; but give my compliments to Mr. Hatsell, and tell him, that when an order of the House of Commons is directed to me, I shall think it my duty to pay obedience." The messenger was then asked, whether Mr. Horne put the summons in his pocket? he said, "he left it with him in his hand." Mr. De Grey asked, if any persons were present at the above discourse, and if the messenger knew any of them? He said, "there were three persons present." Did he know them? "One of them was, he said, Mr. Alderman Oliver, a member of that House, but he did not know any of the others." He was ordered to withdraw.

The Speaker having informed the House, that the Clerk of this House had received a letter from the said Mr. Horne, relative to the service of the said order; the said letter was read, as follows:

"Sir; late last night I received a notice, signed with your name, of an order, which the House of Commons made yesterday, for the attendance of a particular person on Wednesday next. I apprehend, that notice must have been intended for some other person, and delivered to me by mistake; of which I informed the bearer the very moment after I had read it: at the same time adding, that whenever the House of Commons shall desire *my* attendance, I will pay to them all proper and prudent respect. I have the honour to be, &c. JOHN HORNE."

"Tuesday, Feb. 15, 1774."

"To J. Hatsell, esq. clerk of the H. of C,"

Mr. *Herbert* then moved, "That the reverend John Horne, having received an order of this House, for his attendance on this House this day, and having neglected to obey such order, is guilty of a contempt of the authority, and of a breach of the privilege, of this House." This was immediately agreed to. He next moved, "That the said reverend John Horne be, for his said contempt, and breach of privilege, taken into the custody of the Serjeant at Arms attending this House."

A debate ensued, whether Mr. Horne had been guilty of a contempt of that House or not? It was said, it would appear highly ridiculous in their Journals to vote a person guilty of contempt, when he had in the most polite manner, both in his letter, and in his answer to the messenger, said, that whenever an order of the House of Commons was directed to him, he would attend. Many reasons were urged for not taking Mr. Horne into custody until another summons had been served upon him.

Mr. *Sawbridge* said, he had opposed this measure from the beginning, and would oppose it in every stage, as illegal; that in his opinion, the House of Commons had no right to summons any person to attend them. (A general laugh ensued, on which Mr. *Sawbridge* spoke very warmly.) He said, he did not alter his opinion backwards and forwards, as many persons did; that what made him support his opinion was, because he thought he was right, and he would not change his sentiments for any persons in the House; that he would let them know a member of parliament had a right to deliver his sentiments; and, whilst he thought their proceedings illegal, he would tell them of it, without regard to any man's opinion.

Lord *North* said, he thought the identity of the person had been proved, which was sufficient: that Mr. Horne said in his letter, "Whenever the House of Commons desired his attendance, he would pay them all proper and prudent respect;" that this was not saying he would attend, for he might think it prudent to keep out of the way, imagining that the order of the House of Commons might be as infectious as the hand of a bishop. He spoke much against any other summons being sent.

Mr. *Alderman Bull* said, I shall not take up much of the time of the House, as I am confident it can be much better spent by members who can speak far more ably

on the subject than myself: but I think it my duty, as I was not present at the beginning of this affair, to declare, that before I give my vote either way, I must, from the short time I have sat in this House, affirm that I never saw any partiality in your conduct, Mr. Speaker. The author of the libel I sincerely wish may meet with condign punishment, but I could wish the punishment inflicted by a jury of his peers.

Mr. *Serjeant Glynn* said, that it was possible Mr. Horne might be willing to lay aside his priestly character, and enter upon a lay profession; if so, he might not choose to be recorded on the Journals of that House as a clergyman. That it was a question whether a man could disclaim the profession of a priest; but if Mr. Horne chose to try that question with the bishops, he was to bear the consequence. That as priest, he was liable to ecclesiastical censure, and canonical punishment, if convicted of exercising any lay calling; that, anciently, the advocates were all priests, until the publication of a canon excluding priests from practising as advocates. Hence they sunk their priestly characters; whence originated that proverbial saying that the coif hid the *tonsura ecclesiastica*. On the whole, the Serjeant pleaded that no evil could accrue from issuing another summons, couched in such descriptive terms as Mr. Horne could not disclaim. In case of disobedience to such a summons, then, and not until then, should he deem him in contempt.

Mr. *Ongley* said, he thought Mr. Horne had a right to attend; for if the messenger had delivered the summons to a wrong person, the person would have an action for false imprisonment; but if Mr. Horne thought it was not for him, why did he take it?

Mr. *William Burke* spoke with vehemence about the mistaken notions of the House, concerning their privileges; they had not long ago issued their orders, and had taken up a chimney-sweeper and a milkman, whom they forced to attend at their bar; that if they were strenuous for preserving the honour of the House, did it enhance their dignity to have the veriest of the rabble, the lowest wretches in God's creation kneel prostrate before them? That in a contention with the other House (which he feared he might call the Upper House, for they were treated as if they were the inferior House with a witness), that in such a contention, the exertion of

privilege could not be carried with too high a hand; but to call forth their powers against the very dregs of the human species, was acting to the last degree absurd. He concluded, that whilst they exerted their rights as checks upon the other parts of the constitution, they might expect the support and countenance of the people; but if their privileges were maintained upon every trifling occasion, against men of no kind of weight or influence with the world, or against the popular sense of the nation, they would soon lose the privilege of sitting in that House.

Colonel *Onslow* said, it was true that he had been accessory in bringing a milkman before that House; but he was far from being one of the rabble; he was so respectable a character, that a magistrate absolutely refused to take 400*l.* bail for his appearance. The chimney-sweeper also might, for aught he knew, be a man of as much consequence as some of our modern patriots; nor should he wonder if a modern patriot should be found disguised like a chimney-sweeper; that he begged leave to pit his chimney-sweeper against parson Horne; a man (for gentleman he could not call him) by no means so respectable as his milkman. The colonel said, I caused the milkman to be brought before you with the very same intent for which you bring a printer to your bar, to discover the author. Modern patriots hired the rabble to traduce their betters; modern were as much like ancient patriots, as much like Cato or Brutus, as the milkman was like a peer. He added, that had he on that occasion been properly supported, the House would not now be troubled with the question before them; but I was traduced (continued the colonel) my life was once actually threatened, yet I laughed at such scurrility, such futile attempts. Indeed I only shared an equal fate with some other respectable personages. I had the honour, Sir, (said the colonel, addressing himself to the Speaker), I had the honour to be hanged in effigy, on Tower-hill, on the same gibbet with you; indeed, in the dying speeches, the patriots paid me the greater compliment, for they gave out that I died penitent, but that you, Sir, remained hardened to the last. [A burst of laughter ensued.]

Mr. *Sawbridge* then rose, and observed, that he remembered the time when the hon. gentleman thought it not derogatory to his honour to be reckoned amongst the list of modern patriots; that when he be-

[VOL. XVII.]

longed to that corps, the modern were as respectable as ancient patriots; but that the moment the hon. member thought proper to desert, from that moment not one gentleman was to be found amongst modern patriots. The hon. member, he doubted not, had found out a genteeler, as well as a more profitable profession, and he sincerely hoped he got more by that than the patriots did by their patriotism.

Colonel *Onslow* rose to explain and vindicate himself from the charge of desertion and inconsistency. He said, that he had always thought and did still think, that the most impolitic blunder administration had ever been guilty of, was in expelling Mr. Wilkes for his remarks on the King's, or more properly speaking, the minister's speech. But though I was in that particular an advocate for Mr. Wilkes, was I (continued the colonel) therefore compelled to follow him through all his incongruous absurdities? As to any profits he acquired by an exchange of his patriotism, the colonel declared the patriots derived more pecuniary emolument from that profession, than he did from the avowal of any principles he subscribed to. Neither courtiers nor patriots would pay his debts; yet the patriots had paid Mr. Wilkes's debts, amounting to 20,000*l.*

Mr. *De Grey* observed that the hon. member who spoke last, had afforded much diversion to the House; but they were met to debate seriously, and to talk wisely. Such strokes of humour might be very suitable at Arthur's or Almack's, and the jocular author would be applauded for his brilliancy; yet though he had delivered himself like a wit, he had not spoken to the purpose like a man of business; he therefore begged leave to recall the attention of the House, to the question, which was simply whether Mr. Horne, who received the summons, was or was not the person described in that summons? If he was, he was in contempt for disobeying the orders of the House.

The motion was then put and carried.

Feb. 17. The deputy Serjeant at Arms being called upon, to give an account of what had been done, in relation to the order of yesterday, for taking the reverend John Horne into the custody of the Serjeant at Arms; he informed the House, that, in obedience to the said order, the said reverend John Horne had been taken, and is now in the custody of the Serjeant at Arms attending this House.

Ordered, That the said reverend John Horne be brought in, to the bar of this House.

The *Speaker* informed the House, that when the prisoner was brought to the bar, no question could be proposed to him but from the chair.

Mr. *Sawbridge* objected much to their proceeding; he said, it was throughout illegal; that they had no right to form themselves into a criminal court of judicature; that they had voted Mr. Horne guilty of a breach of privilege in contempt of that House, before they knew he was guilty; that they had begun with condemning a man before he had been tried; and if that was their manner let them go on and prosper.

Mr. Horne was brought in, to the bar, accordingly; and was informed by Mr. Speaker, that the House had, upon Friday last, "Resolved, *nem. con.* that a Letter, addressed to sir Fletcher Norton, knight, Speaker of this House, in the Public Advertiser of that day, is a false, malicious, and scandalous, libel, highly reflecting on the character of the Speaker of this House, to the dishonour of this House, and in violation of the privileges thereof;" and that Henry Sampson Woodfall had, at the bar of this House, informed this House, that the said Letter was delivered to him by the reverend John Horne. And the said Mr. Horne being asked by Mr. Speaker what he had to offer to the House, in relation to the said charge;

Mr. *Horne* made a long defence to that part of his accusation, which tended to his holding the House in contempt. He said, he hoped his letter to the Clerk of the House, his answer to the messenger, and, above all, the readiness he had shewn in being taken into custody to-day, would prove that he did not hold that House in contempt.—He was ordered to withdraw.

Mr. Alderman Oliver then moved, "That the reverend Mr. John Horne has satisfactorily exculpated himself from the contempt with which he stands charged, for refusing to attend this House; and that he be therefore discharged from the custody of the Serjeant at Arms attending this House."

And the previous question being put, that that question be now put; it passed in the negative.

Ordered, That Mr. Horne be again brought to the bar; and that Mr. Speaker do acquaint him, that he is now to answer the matter of the information given to this

House by Henry Sampson Woodfall, on Friday last, and which has been this day read to the said Mr. Horne at the bar.

Several questions were proposed to the Speaker to be asked of Mr. Horne. Mr. Horne was called in, and the question put to him. He desired to know, whether what Mr. Woodfall had said was the only evidence or charge against him? The Speaker said, it was the charge. He then said, it was very droll, for he had a charge against him. He concluded with saying, he should plead there, as in any other court of justice, Not Guilty.—He was ordered to withdraw. After which,

Mr. Solicitor General *Wedderburn* said: Mr. Speaker, the prisoner just removed from your bar having pleaded generally not guilty, it is now necessary, in my opinion, that he should be confronted by Mr. Woodfall, who has charged him with being the author of a paper which this House has voted a false, scandalous, and malicious libel. I own, Sir, with great readiness, that, as Mr. Woodfall is involved in the guilt of that publication, I shall not, either upon principles of law, or principles of humanity, give my vote for Mr. Horne's conviction, if nothing more is produced against him than the bare testimony of Mr. Woodfall. Mr. Woodfall, Sir, however he may be hitherto distinguished for his private probity, stands before us now in the light of a delinquent, and he may possibly hope for our lenity, or dread our resentment, in proportion as he shifts his delinquency to the shoulders of other people. Yet, notwithstanding the caution with which we should therefore receive his evidence upon this occasion, his evidence is essentially necessary; and, should it either be supported by other proof, or should it be strengthened by such circumstances as give it sufficient credibility, we shall be able to decide with precision, and to do that justice which is requisite to maintain the unquestionable privileges of parliament.

Captain *Phipps*:

Mr. Speaker; the learned gentleman who has just spoken before me, has urged so forcible a reason to invalidate Mr. Woodfall's testimony, that I am astonished he should, with the same breath, pronounce it essentially necessary. Mr. Woodfall, Sir, is in the custody of your Serjeant at Arms, for a heinous offence; his punishment is at the discretion of the House, and, through the common weakness of human nature, he may be terrified

into such accusations of other people, as shall seem most agreeable to the wishes of those particular gentlemen who are known to have the unlimited direction of this assembly. If Mr. Woodfall's evidence is not wholly unexceptionable, it cannot be competent; and if it is not competent, it cannot be admissible. I am therefore against Mr. Woodfall's being called in; and the more I consider the point, the more ground I see in favour of my resolution; for supposing, Sir, that Mr. Woodfall was actually to prove Mr. Horne the author of the letter in question, it does not necessarily follow that any guilt is fastened upon Mr. Horne, unless the blessed doctrine of *scribere est agere*, which destroyed Algernon Sydney, is to be introduced. The crime we want to punish lies in the publication of the paper voted a libel, not in the writing of it. Had it yet continued in manuscript, unpublished, it would have been no way offensive; and the most subtle refinements of legal chicane could not have made the writer legally punishable. I must therefore persevere in rejecting Mr. Woodfall's evidence, for the reasons already given. If it is not unexceptionable, it cannot be competent; and if it is not competent, it cannot be admissible.

Mr. Grey Cooper :

Mr. Speaker; the hon. gentleman who spoke last forgets that, in the rules of evidence, there is a wide difference between competency and sufficiency. If he turns to our best law writers, however, he will see the distinction very satisfactorily established. But, Sir, every day's practice, especially in our courts of criminal jurisdiction, proves the hon. gentleman's mistake beyond the possibility of contradiction. Accomplices are hourly admitted evidences for the crown, in cases of the most capital nature; and, if they were not, I am much afraid that there would be a lamentable failure of public justice. Indeed, unless the evidence of an accomplice is supported by the testimony of other witnesses, or unless some corroborating circumstances occur to give it credibility, our courts, to the infinite honour of the national humanity, will not convict: yet still, though they do not hold the bare oath of the accomplice a sufficient evidence, they nevertheless deem it a competent, that is, an admissible one. The hon. gentleman therefore will, I trust, see his mistake; and, since he is required to be-

lieve no more of Mr. Woodfall's testimony than what he himself shall think reasonable to believe, it will deviate not a little from his customary candour to oppose Mr. Woodfall's re-examination at the bar, in the presence of the other prisoner.

Mr. Alderman Townsend, Mr. Sawbridge, Mr. Oliver, Mr. William Burke, and col. Barré, spoke against the competency of Mr. Woodfall's evidence, and all proceeded on the ground of captain Phipps's argument; but the sense of the House appearing, by a very considerable majority, in favour of the Solicitor General's proposal, a new debate ensued, upon the mode of examining the prisoners. Mr. Cornwall and others spoke with respect to order; but the Journals were at last searched, and the precedent in sir John Fenwick's case was approved, where such members as chose to put questions were directed to put them through the channel of the Speaker.

The *Speaker*. I never imagined that it could be painful to me to obey an order of this House; but, placed as I am, by your goodness, in this chair, I must endeavour to discharge my duty, how much soever, in the present instance, which so personally relates to me, that discharge may be distressing to myself. To avoid the possibility of mistaking, therefore, I must request, that such gentlemen as mean to propose questions to the prisoners, will be kind enough to do it in writing, otherwise some may apprehend that I am doing too little, where my only dread is that of doing too much.

The prisoners were then called in, and Mr. Woodfall proved, that he received the letter from that Mr. Horne; that it was that Mr. Horne's writing; and that he delivered that Mr. Horne a proof of the letter before it was published; that he went to Mr. Horne as soon as he received a summons to attend, and that that Mr. Horne desired him to give him up as the author.—They were again ordered to withdraw, and another debate arose, Whether this evidence of Mr. Woodfall was competent or not? and it was proposed to ask Mr. Woodfall, If any person was present at any of the times when Mr. Horne was with him? They were both again called in; Mr. Woodfall said, no person was present when Mr. Horne gave him the letter, no person was present when he gave Mr. Horne a proof to correct—that when the proof was corrected it was sent back; but he was not at

home then, nor did not know who brought it or received it. He was asked the names of his servants? He gave in the names of three compositors, some of whom he imagined composed it.—They were both ordered to withdraw.

Mr. *Herbert* then moved, that Mr. Woodfall's three journeymen should be ordered to attend to-morrow. This brought on a fresh debate, still warmer than the former.

Mr. Alderman *James Townshend* :

I rise, Sir, against the present motion, because it is palpably repugnant to every principle of legal justice. Mr. Horne, Sir, has been brought upon his trial before your bar, and the evidence produced against him has been insufficient to convict him of what he is charged with by Mr. Woodfall. What then do you do, Sir? You adjourn your court, hunt out for fresh evidence against him, and make it as serious a point to find him guilty of an insignificant libel, as if the safety of the whole state depended upon his conviction. For God's sake, Sir, is the object in view worth all this labour, all this toil, all this anxiety? We have no triumph if we succeed, but we are materially disgraced if we do not. A regard for the honour of the House is the ostensible motive of our conduct hitherto. Let us take care, therefore, that our honour is not scandalized by going on. Suppose Woodfall's journeymen prove nothing satisfactory, will you adjourn again and look for fresh evidence? I dare predict, that his men will throw no greater lights upon the matter than their master. Why trouble us, then, with their attendance? why alarm the nation with an enquiry which most probably, in the end, will expose us to general ridicule? In every court of justice a man undergoes but one trial for one offence; Mr. Horne has undergone his trial for the libel imputed to him, and I am of course against the present question, because nothing now remains for us, but to decide upon the evidence which has been produced. If the adjournment takes place, Woodfall's men may be tampered with; and to serve their master, whose pardon is perhaps to be purchased by Mr. Horne's conviction, they may possibly do whatever they are commanded by the managers of this prosecution.

Mr. Solicitor General *Wedderburn* :

From the candid behaviour of

Mr. Woodfall when he was before the House, as well as from the moderation with which he was treated, I dare say the hon. gentleman who spoke last does not, with respect to the libel which has created the present debate, imagine, that Mr. Woodfall is in a very perilous situation. Nay, from the conduct of the House to Mr. Horne, and the repeated admonitions he received with respect to his defence, I am sure no man can put his hand honestly upon his heart, and say that the smallest prejudice has appeared against him from an individual of this assembly. I appeal to his warmest supporters. I appeal to the galleries, to every auditor who hears me, whether those whom the hon. gentleman would insinuate to be among the foremost of his enemies, have not acted as if really anxious for his acquittal. They have given the best advice for his defence. They have been the first to point out the insufficiency of the present evidence against him. They can have no interest to advance even by his conviction. They may find much trouble, but they can gain no emolument by continuing their enquiry; and therefore I am amazed that the House should upon this occasion be considered in the light of a prosecutor. The House is now sitting in its judicial capacity; and if, as they proceed in that capacity, fresh evidence occurs, it is their duty to receive it. Mr. Horne, Sir, if really innocent, cannot be injured by the closest investigation. The more the truth is discovered, the more his character must be cleared in such a case; and if his friends do not really suspect his innocence, they have no cause to tremble for his situation.

Gentlemen have been pleased to talk about the probability of somebody's tampering with Mr. Woodfall's journeymen; for my own part, I do not pretend to the spirit of prophecy, nor do I know what satisfaction Mr. Woodfall's men may give us, though I shall not be sorry if it should be favourable to the person who has been just removed from your bar. But, Sir, if a charge of tampering could with propriety be insinuated at all, it should be against the professed champions for Mr. Horne. They take upon them, even at this moment, to predict what the evidence of the journeymen printers will be; they tell you it will be less satisfactory than Mr. Woodfall's. How do they know this? Upon what ground can they hazard their opinion? Have they already tam-

pered with the journeymen printers? Away with the unmanly idea! The mind half acknowledges a turpitude in itself, which can lightly suspect others of disingenuous arts, and I will therefore believe that the gentlemen have spoken rather the language of their wishes, than the result of their information. I am for getting as many lights as can be procured upon the present occasion, and it is time enough to sit down in total darkness, when there is not a ray to guide us any longer.

Mr. Dunning:

I rise to oppose the present motion, Sir, upon two tolerable grounds, the grounds of common law and common sense. According to the first, as an hon. member near me has very properly observed, you cannot try any man a second time, for the same offence; and, according to the latter, it would introduce numberless evils to exercise such a power, even if it could possibly exist in a rational state of society. This House, I hope, Sir, in the principles of substantial justice, will never be inferior to the courts of Westminster; and though there may be a difference in the modes of their proceeding, still their determination should be fundamentally analogous. Give me leave, therefore, to suppose that you were presiding in a common-law court of criminal jurisdiction, and that a prisoner was brought before you for a capital offence; suppose also, Sir, that the prosecutor in such a case, failing in his proofs to convict, should beg for new time to look for fresh evidence, and tell you, that, if you allowed him a week or a fortnight longer, he would be able to bring such an army of evidences as would certainly convict the prisoner: Sir, you would spurn the request with indignation, and commit the brutal prosecutor for so infamous an outrage upon the dignity, the justice, of your court. Is not the present case exactly similar? Mr. Horne has been tried for his offence, the evidence against him is insufficient, and now the prosecutor standing up, says, "Pray, my lord, allow me a day or two to look for fresh evidence, and the prisoner shall certainly be proved guilty in the course of the next week." If this doctrine is once established, there is an end of the subject's security; and if it is established, too, by the very representatives of the people, who should protect them from oppression, the national dis-

grace will be equal to the national misery, and we must fall equally the victims of shame and despotism.

Mr. Attorney General Thurlow:

Mr. Speaker; though I acknowledge that there is much ingenuity in the reasoning of my learned friend who spoke last, I must at the same time say that his argument is infinitely more subtle than convincing. The principles of substantial justice will, I trust, be ever held as inviolably sacred in this House as in the courts of Westminster-hall. We are not now differing about substantial justice, but about the modes of administering that justice; and the learned gentleman has acknowledged, that different courts are regulated by different forms. We, Sir, are a court of enquiry, as well as a court of criminal jurisdiction; and if we shut our ears against information, we shall not be able to exercise the functions of our criminal jurisdiction with propriety. Here, Sir, a charge has been exhibited to us against Mr. Horne, in our capacity as a court of enquiry. In the discussion of this charge it appears that fresh evidence may be had, to do what?—Not to convict Mr. Horne—not to support Mr. Woodfall—but to clear up the truth with precision, and to enable us to do justice. The hon. gentleman says No, though you are sitting for the very purpose of discovering the truth, you must choke up the channel of discovery, and you must determine, in your character as a criminal jurisdiction, without receiving the necessary information. I grant, indeed, that if the three journeymen printers, who are now moved for to attend, were to be sought for at random, that if they had no relation to the present business, and were to be maliciously hunted for in the streets, there would be some ground for complaint; but when they are the very people through whose hands the libel you have censured has passed, when they rise actually out of their master's testimony, and have a tendency to prove or disprove that very credibility which we are enquiring for in Mr. Woodfall's evidence, I think it highly injurious to justice to oppose their attendance, and wonder that gentlemen will not as readily subscribe to established rules in parliament, as in the courts of Westminster-hall. With respect to any cruel intention against Mr. Horne, I disclaim for one so foul an idea. It is well known, that, in my official character, I want no

author. The printer of a libel is enough for me; and I ever think it injudicious even to look beyond the printer; officially, therefore, I am not Mr. Horne's prosecutor. I have directed no prosecution whatever against him; and personally, I am no more his enemy than any other member in the House. Farther than the cause of justice is concerned, his acquittal or conviction is to me a matter of utter indifference. If he is innocent, I should be very sorry he was not discharged; and if he is guilty, I should be very sorry to see a man escape with impunity, who daringly libelled the British Commons legally assembled in parliament.

Mr. Solicitor General *Wedderburn* :

The learned member who spoke last but one has drawn a very plausible, though a very defective parallel between this House and the common courts of criminal jurisdiction; inferring, because a jury in the latter, when charged with a prisoner, are obliged to pronounce upon his guilt or innocence before they are allowed to depart, that we are under the same necessity of deciding, without adjournment, whenever a prisoner is arraigned at our bar. Sir, I must affirm, with my learned friend who spoke last, that, though substantial justice is as much the object of pursuit in this House as in other courts of criminal jurisdiction, we must be regulated by our own forms, and not by the forms of any different tribunal.

Should the members of the long robe, adopting the idea to serve a particular turn, contend in Westminster-hall, that the judges should abolish their own forms which have existed so many ages, and proceed entirely by the forms established in this House, I am afraid that there would speedily be an end of all law, and an end, moreover, of what is still more important, of all substantial justice. The hon. gentleman has been pleased to insinuate, that there are no instances of adjourning the trials of offenders before this House. By trial, he must necessarily mean examination; for, in cases where a contempt has been offered to our privileges, we have no other mode of trial. This being admitted, I must express my surprize that he is not better acquainted with the course of parliamentary proceedings. Our Journals abound with precedents of remanding prisoners for further examination—and even in the most solemn of all trials, the trial of

peers for capital crimes, the instances of adjournment are numberless. The fact, with respect to adjournments, being thus ascertained, I must now examine the doctrine which the hon. gentleman has laid down, to shew what he thinks would be the consequence, if adjournments were allowed where a prisoner is put upon his defence before a jury. Should a malicious prosecutor, says he, fail in his first proofs to convict, and should he be allowed time to find out farther evidence, the subject would never be secure; innocence would be the eternal victim of malignity; and our courts of law would only be so many mockeries of justice. As our courts of law, however, where a jury is charged with a prisoner, do not allow the prosecutor, if he fails in his first proofs, the liberty to seek for fresh evidence, the hon. gentleman's fears may be entirely easy on this head: yet there are cases where the common courts of criminal jurisdiction not only adjourn trials, though the prisoner is brought before a jury, but where it would be highly injurious to the subject not to grant such an adjournment. Suppose, Mr. Speaker, that a material witness to prove the innocence of a prisoner was by any accident in a distant country, or beyond sea, or prevented by some other circumstance from attending on a trial, surely it would be a dreadful violation of substantial justice not to adjourn this trial, though the delinquent stood at the bar: unquestionably, Sir, and every day's practice shews us the wisdom, as well as the humanity of the principle I am contending for. We are not trying Mr. Horne twice for the same offence; we are only adjourning on one trial. No new charge is to be urged against him; but substantial justice makes it necessary, since proper evidence occurs, to examine whether he is free of the original one.—Having, therefore, shewn, Mr. Speaker, in opposition to the opinion of the hon. gentleman, first, that the forms of common law courts are to be no rule for our conduct; secondly, that the adjournment of trials, even in capital cases, is very frequent; and, thirdly, having shewn not only that his fears, with respect to the introduction of adjournments, are groundless, but that there are cases where it would be the highest cruelty not to grant them; I shall vote for the present question, and doubt not but that I shall be supported in that vote by every dispassionate member of this House.

Mr. Popham :

Mr. Speaker ; I shall trouble you with very few words on the present occasion, yet I think myself called upon by duty to point out a distinction which seems to have escaped the observation of the House. We are undoubtedly a court of enquiry, Sir, as well as a court of criminal jurisdiction ; but our inquiry is over, and our inquisitorial authority therefore ceases. Had we this moment any new evidence before us, with respect to the charge against Mr. Horne, we might still sit as a court of examination ; but as we have not, and as the professed end of the adjournment is to procrastinate the sentence upon the evidence already given, because it is not sufficient to convict him, I shall certainly oppose the motion before the chair. We have exhausted our inquisitorial powers, let us now therefore proceed to the exercise of such powers as remain in our hands ; let us be careful of our reputation, while we are labouring to defend our privileges, and recollect that it is better to be the object of a thousand slanders, than to give foundation for a single reproach.

Mr. Gascoigne :

Though frequent similitudes have been made, Mr. Speaker, between this House and the courts of law, in the course of this and former debates, yet the parallels have been rather drawn where both sit to decide between indifferent parties, than where they are to pronounce upon a contempt offered to their own authority. I can easily conceive, Sir, that the court of King's-bench, if insulted in the person of an officer legally authorized to serve a process, would think itself justly warranted to hear every thing that could possibly elucidate the nature of the contempt, every thing that could shew the offender's guilt in its full light, or serve as an argument of its extenuation. If the officer, seeing his own evidence not sufficient to convict, should, at the time he was delivering it in, recollect any particular circumstances or persons, by which or by whom, there was probable ground of supporting his testimony, can we imagine, Sir, after his mentioning these to the court, the party accused would not be remanded till a reasonable time was granted for examining into the force of such auxiliary evidence ? To suppose a negative here, is to suppose the court no less ignorant than inequitable, and to encourage a general disregard of all

legal subordination. The powers possessed by the courts of law to punish contempts, are not given out of compliment to the judges ; nor are our privileges enjoyed to make us respectable in our character of private citizens. No, Sir, both are to be exercised for the public good, and to be held *in terrorem* over the heads of those who would otherwise disobey the laws, and daringly lift their hands against the pillars of the constitution. Thus enjoyed, they are not to be defined, but must be shaped to the nature of the abuses which they are intended to correct. As there is no guarding against the extravagances of wickedness or absurdity, an authority must exist somewhere, to punish every improper outrage offered either to the executive or the legislative orders of government, and this authority can exist no where so safely as in the courts of law, or in the Houses of parliament. I am consequently for the motion ; being well satisfied that we have a discretionary right to extend our enquiry as we judge proper, and being moreover satisfied that our enquiry will, on the present occasion, be only extended for the real good of the people.

Mr. Dowdeswell :

There is scarcely a measure which has the sanction of the ministry in this House, Mr. Speaker, which is not necessary to be opposed. I have long opposed—and if the gentlemen on the opposite bench continue in office, I am afraid I must oppose much longer. Here are we wrangling about the maintenance of our privileges, Sir, yet losing sight of our honour, and endeavouring to render ourselves, if possible, more hateful than ever. If it was so grand an object of government to convict Mr. Horne of the present libel, why did not the gentlemen who manage this prosecution collect the necessary proofs of his guilt, before they brought him here ? That would have been the proper mode of proceeding, and there was time enough to have done it. But no—they bring the man to his trial—they confront him with his accuser, and when the proof grows defective—why then they crave time to call in fresh evidence ! As far as we have hitherto gone, Sir, our disappointment has been sufficiently disgraceful ; but if we go on, and can in the end prove no more against Mr. Horne than what we have already proved, we must be despised, ridiculed, laughed at, by the whole kingdom. Mr. Horne is now

triumphing over us, and will have a new triumph in that case. If, therefore, our honour is really dear to us, let us drop this contest. If we have any shame left, let us shrink from the contempt which awaits us, and, out of a regard for ourselves, make no more attempts upon the freedom of the nation.

Lord North :

Mr. Speaker, I have hitherto closely attended to the arguments which have been urged against the motion now under the consideration of the House, and the more I have weighed their force, the more I am convinced of its perfect propriety. I shall not enter into any defence of it upon principles of law, as it has been already supported in so unanswerable a manner by two of my learned friends, the Attorney and Solicitor General; but I shall beg your patience, Sir, for a few observations on what has been said against it, as well with respect to the indignation which it may excite among the people at large, as with respect to the eventual disgrace which it may draw down upon the House. It is first affirmed, that we have brought a charge against Mr. Horne, which we are not able to prove, and that now we want to keep him arbitrarily in custody, till new evidence is found to convict him. I deny this position wholly; the House has brought no charge whatever against Mr. Horne. The charge against him proceeds from Mr. Woodfall. Mr. Horne, indeed, refused to attend an order of the House, and was apprehended by the Serjeant at Arms for his contempt; still, however, the House has made no charge, and is now solely debating whether the evidence of Mr. Woodfall's men, through whose hands the libel passed, shall be called for, to give what force it may possess to the testimony of their master. The right hon. member who spoke last says, that, if the conviction of Mr. Horne was so grand an object to government, we should have had our evidence ready to convict him before he came to our bar. Sir, government has no wish to convict any man of a crime who is really innocent; it is a sufficiently distressing part of its duty, to punish the really guilty. It would be highly for the advantage of government, if there were neither offences nor offenders; government, therefore, having brought no charge against Mr. Horne, was not required to bring any evidence in his disfavour; that fell wholly to the share of his accuser, and the accuser

having mentioned the names of some who may materially tend to elucidate the truth, justice makes it indispensibly proper to see what lights they can throw upon the accusation.

Great stress is laid, Sir, upon the disgust which the question, if carried, will excite without doors. But this part of the argument is addressed rather to our passions, than to our reason, and shrinks before the test of examination: for give me leave to ask, whose battle are we fighting upon this occasion? Is it not the battle of the people? We have no privileges but what we derive from them: we have no authority but that with which they have invested us. Can it be supposed, then, that the people will be angry with us for maintaining their rights? for defending their political omnipotence, and preserving that reverence for their authority, which gives them so happy an equipoise in the great scale of the constitution? We are only the meteors of a moment, Sir, and when we are in the dust, it will little signify to us, whether there is a single privilege of this House existing; but the people will continue to the latest hour of time I trust, and if we suffer an invasion of their powers, the precedent may wound them to the last line of posterity. The right hon. gentleman has often accused us of destroying the people's liberties, and now he is angry with us for standing forth in their defence; fault, however, must be found, and so the wicked minister is blamed, no matter what is the ground of accusation! Various gentlemen in the course of the debate have introduced a very whimsical doctrine, and insisted, that the House must be overwhelmed with disgrace, if Mr. Horne is not convicted. And why so, Sir? Is a court of law ever disgraced, because a prisoner may be acquitted on his trial? If the position of these gentlemen holds good, the judges, in defence of their own honour, must labour to condemn every culprit. The more they hang upon this principle, the more they will raise themselves into estimation. But I am weary of refuting such puerilities. While we do justice, we need never be apprehensive of disgrace; and it will be a greater glory to let a man escape with impunity, whom we all believe in our consciences to be guilty, because there is not a sufficiency of legal evidence against him, than to decline any enquiry which may have an eventual tendency to maintain the legislative authority of the people.

Mr. Edmund Burke :

I have seen too many instances of absurdity in this House, Sir, to be surprised that a motion, like the present, begot by folly, and nursed by despotism, should find so many powerful advocates. But, Sir, if gentlemen retain the smallest sense, either of honour or remorse, let me conjure them to renounce their sacrilegious design against the happiness of their country. The motion before you, Sir, is without a precedent in the annals of infamy. If there be a precedent for it, let its boldest advocate stand up and produce it, or say why it has not yet been produced; to give oppression at least something like a familiar complexion? We are here, Sir, in a material part of the session, throwing away our time, which God knows is highly requisite for the national service, and swelling up the little wart of a private libel into a political Atlas, as if the object of this night's debate was to support our tottering constitution. Does this become either the real gravity of our seats in this House, or the affected sanctity of our character beyond these walls of corruption? Pardon me, Mr. Speaker, if I am too warm. My animation may be a reproach to my prudence, but I trust it will be no reflection on the integrity of my heart. I never rise in this House with indifference, and I never rose with more indignation than at this moment, to see the malignant rod of persecution still held up in our hands, when we ought to be seriously labouring for the good of the people.

You, Mr. Speaker, have a kind of personal concern in the business of this moment. Let me beseech you to exert your influence. Let me intreat you to heal, if possible, these guilty dissensions which tear us from the public service, and degrade us into the legislative executioners of the community. The noble lord who spoke last, affects to feel greatly for the honour of the House; and so he ought, for never was House so obsequious to a minister. If, however, he would really shew his regard, let him now remove this monster of a motion from our sight, and no more engage us in war with individuals, where victory can only be bought with the tears, and defeat be attended with the scorn, of the whole kingdom.

The question being then put, That the three persons named by Mr. Woodfall do attend to-morrow, the House divided. The Yeas went forth.

[VOL. XVII.]

Tellers.

YEAS	{	Mr. Burrell - - -	}	132
		Mr. Hanmer - - -		
NOES	{	Mr. Alderman Oliver	}	44
		Mr. Ald. Townsend -		

So it was resolved in the affirmative.

Feb. 18. The Serjeant at Arms was desired to bring the reverend Mr. Horne to the bar. A warm altercation now arose whether the questions to be put to the witnesses should be propounded by the Speaker, or only suggested to him by the members. Mr. Cavendish insisted that the Speaker had no such power in himself, and that while the mace was at the bar, no member could speak. To this it was objected, that it was extremely improper to fetter the House with such an unnecessary form; that if it was founded in reason, that reason ought to be assigned; and if it was not, it was fitter to dispense with it than that the proceedings should be thereby interrupted.

The Speaker at length declared, that the mode of proceeding in the present instance had been agreed to already, it could not be therefore departed from, and that he should adhere to it. The House then proceeded, and Mr. Horne was ordered to the bar.

Richard Penny was then called in, and the following are the most material questions put to him by the Speaker:

What occupation do you follow?—I am printer.

Do you follow any particular branch of the printing business?—Yes, that of a compositor.

Are you a master printer, or do you work as a journeyman?—I work as a journeyman.

With whom?—With Henry Sampson Woodfall, printer of the Public Advertiser.

Do you do any part of the news-paper called the Public Advertiser?—I do.

What part?—Sometimes essays, sometimes paragraphs, at others advertisements.

The Clerk was ordered to deliver into his hands the paper of the 11th instant, wherein the libel upon the Speaker was published.

Did you compose all or any part of the letter addressed to sir Fletcher Norton, knt. and Speaker of the House of Commons?—Yes; I composed a part, and left off at the word 'punctilio.'

[S X]

Are you the only compositor employed upon the paper, or are there others?—There are five compositors besides myself.

He was desired to name them; and named them accordingly.

From what was the letter addressed to sir Fletcher Norton composed?—From a manuscript.

Do you know the hand-writing of that manuscript?—I do not.

Do you know whether it was Mr. Horne's hand-writing?—I cannot tell; I never saw him write.

What became of the manuscript after the letter was composed?—It was delivered to Mr. Woodfall.

Do you know any thing of a proof sheet of the letter?—That also was delivered to Mr. Woodfall.

Did you see it afterwards?—I did.

Did you see any corrections; any marks in writing upon it?—There were some.

Can you tell of whose hand-writing?—I cannot.

Where was the proof sheet of the letter addressed to sir Fletcher Norton, sent to?—I do not know.

By what messenger was it sent?—I cannot tell.

In how long a time was it returned with the corrections?—In about ten minutes.

Do you know the prisoner at the bar?—I have seen the gentleman about twice before, but never had the pleasure to converse with him.

You never saw him write, nor do not know his hand-writing?—I never saw him write, and cannot be positive as to his hand-writing.

Mr. Horne was then told, If he had any questions to propose to the evidence he might propose them. To which Mr. Horne replied, I would ask the evidence whether, before this moment, he ever heard me speak?—Yes; at Brentford.

Penny and Mr. Horne were ordered to withdraw, and Mr. Dempster begged leave to state a doubt he laboured under respecting the propriety, or indeed justice, of the proceeding; for, argued Mr. Dempster, the House has entered a resolution upon the Journals, against the authors, printers, and publishers, of this infamous libel; yet you are examining a man, who by his own confession appears to have been concerned in the printing of this very libel. I shall submit it therefore as a question to the House, whether the evidences

should not be informed from the chair, that nothing in their testimony shall go to involve them in the criminality; as it was violation of all justice to make a man convict himself. The Speaker in reply said, That if the House requested it, he would give the evidences such information; but that it was contrary to the forms observed in any court of judicature, as many gentlemen of the long robe present could testify.

John Sterndale, another of Mr. Woodfall's compositors, was then, in company with Mr. Horne, introduced to the bar. Questions, in substance the same as those proposed to Penny, were addressed to him from the chair, and, from his answers, it appeared that he had not composed a line of the libel.

He was asked, who carried the proof sheet to be corrected?—He could not tell. Who generally were the messengers on those occasions? His answer was, boys whom we call devils.—Did he know any thing of Mr. Horne's being the author of the letter to sir Fletcher Norton?—He replied, he had heard his master say that Mr. Horne was the writer of that letter.

Charles Davis, a third compositor, was then placed at the bar and interrogated. He proved no more than the two preceding evidences.

The interrogation of the evidences being finished,

The *Speaker* addressed Mr. Horne in terms substantially as follows:

"Mr. Horne, you have heard the whole of the charge against you, both from Mr. Woodfall and the evidences just now examined. If you have any thing to say in exculpation of yourself, or any defence to make, now is your time to offer it. I must remind you, that you have no occasion to say any thing tending to convict yourself."

Mr. Horne, in an address to the Chair, delivered himself thus:

"Sir, I have only my thanks to return for the indulgence and personal favours which have been shewn me. There is, Sir, a maxim laid down by a very wise man, a maxim that hitherto I have found no reason to dispute, it is 'that truth, however strong of itself, was never strong enough to oppose a vote.' I trust, however, that from the event of this day I shall be convinced my friend's maxim in one instance failed."

The *Speaker*. Is that all you have to say, Sir?

Mr. Horne. Yes.

He was ordered to withdraw.

Mr. *Herbert* then apologized for the trouble he had given the House, and added, that, as the evidence had not proved Mr. Horne the author of the libel, to evince his impartiality, he should move 'That Mr. Horne be now discharged out of custody of the Serjeant at Arms.'

Mr. *Sawbridge* moved this amendment, 'Without paying his fees.'

Mr. *Phipps* seconded the motion thus amended, upon a principle that he ought not to pay for the neglect of his accusers, in not having witnesses sufficient to prove the charge on the first day; and that, if such a procedure was once established as a precedent, it would be in the power of a malicious person to ruin any man, by producing fresh witnesses day after day, and thus keeping him a prisoner during the whole session. But we have been led into the absurdities, continued Mr. *Phipps*, by giving ear to false prophecies. A noble lord prophesied that Mr. Horne would not attend; he had therefore led the House on a wrong scent; and his prophecy failing, no wonder the necessary preparations were not made for the event which happened.

Mr. *Charles Fox* said, it was impossible to sit still and hear gentlemen give a false statement of the proceedings of the House; he therefore mentioned the detail of occurrences in the order they happened. Though he was not against the motion for the discharge of the prisoner, he hoped the failure of evidence would be a caution to the House in their future proceedings, and particularly that the House might not think the printer deserved any lenity for obeying the summons, or giving up the author; he had done no more than his duty. The author, Mr. *Fox* said, was no object to him; the printer, who had inserted such an infamous libel, he was the greatest culprit, and should have been committed to prison as was at first moved. But Mr. *Fox* said he should reserve his sentiments until the printer thought proper to present a petition.

Mr. *Herbert* agreed with Mr. *Fox*, that the printer who inserted such a false and infamous libel deserved the severest punishment, and he gave notice, that whenever the printer presented his petition, he should move a prosecution against him for the libel. With respect to the fees, he contended that Mr. Horne ought to pay them, as his being in custody was owing to his not obeying the summons.

Colonel *Barré* then arraigned in the most pointed and sarcastic terms, the whole of the proceedings. He said, that but a very few days ago a Bill had been brought in, prohibiting any gaoler from accepting fees of persons acquitted of the crimes laid to their charge. Were common gaolers to be excluded, and was the gaoler of that House to be permitted to receive fees, in similar cases? Not, (argued the colonel) that I am for depriving the officers of this House of their proper perquisites; but suppose we compliment them in a more handsome way; suppose we petition the crown to pay this gentleman's fees; or what if the noble lord issues a Treasury order for the purpose. It is urged, Sir, that the fees should be paid because Mr. Horne was in contempt; but if you discharge you acquit him, both of the contempt, and of being the author of the letter. If he is not acquitted of both, you ought not to discharge him. At the first commencement of this business I augured that it would end ill, and I last night felt inconceivable pain for the noble lord; his troops were no more prepared to defend than to fight for him. I know some little matter about the arrangement of troops, but in my life I never saw a body of regulars cut so wretched a figure? The noble lord has been charged with what I never suspected him guilty of, a precipitancy. I hope he will take his spirited friend's advice (Mr. *C. Fox*) and learn a little caution. Advice, whether coming from a grey or a green head, if good, should be followed. Sir, much has been said about the honour of this House; but where was its honour when Mr. *Wilkes*, in answer to the sheriffs' summons, called the majority of this House [I don't say it because I am seldom with the majority] 'corrupt, profligate, and venal?' Did he not sign that letter to the sheriffs with his name? You had the author and printer in your power; where was your honour? Where that wonderful anxiety for the privileges of this House? Yet you dare not attack Mr. *Wilkes*, but pitifully attack a man against whom there is no proof, and bewilder yourselves in fishing out evidence from compositors and printers devils! We have had a great deal of sound law; I wish we had a little more sound sense from the other side of the House. I have every thing to hope from the noble lord; he is at present most happily situated, for if he wants law, he has but to look to the left [to Mr. *Wedderburn*] if he stands in need

of common sense, his spirited friend on the right [Mr. Charles Fox] can abundantly supply him.

Mr. *De Grey* opposed the discharge of Mr. Horne, and was deviating into an abuse of Mr. Tooke, but Mr. Alderman Townsend called him to order.

Mr. Herbert's first motion was then put, "That Mr. Horne be discharged from the custody of the Serjeant at Arms;" which passed without a division.

Feb. 24. Captain *Phipps* presented a petition from Henry Sampson Woodfall, owning the enormity of the offence, and throwing himself on the clemency of the House.

Mr. *Dempster* seconded the motion for his discharge.

Mr. *Herbert*, after owning that the conduct of the prisoner spoke much in his favour, declared, that he did not think a few days confinement a sufficient punishment for his offence: he moved therefore that the petition be rejected.

Lord *George Germain* spoke for the reception of the petition, and the discharge of the petitioner: his case, he said, was singularly hard; he was about to be severely punished for what his brother printers were daily guilty of, namely, printing the proceedings of the House; that the Speaker signed an order, which appeared at the bottom of every day's printed votes, that no man should print the proceedings of the House without his express leave, and yet they had been told, at their own bar by the petitioner, that he had been a printer for near twenty years, and never incurred the displeasure of the House before—a tacit implication, that the House themselves were less rigid in supporting their own orders, than their honour required: he therefore was for discharging this first offender, and letting their present lenity operate as a notice, that they were determined to punish with the utmost severity the next person who merited their resentment.

Lord *North* said, that the decent demeanor of the prisoner, the candour of his acknowledging his error, and the respect and submission which he had uniformly shewn the House, had in a great degree lessened his criminality; but that the hon. member, who first made the motion for his being committed to the custody of the Serjeant at Arms, deserved the support of the House; he was disposed to shew mercy to the petitioner, but he could not desert

the hon. member, when he so highly merited assistance: he therefore seconded the motion for rejecting the petition: a few days imprisonment, he thought, was too lenient a punishment; a day of mercy would come, but it was not yet at hand.

Colonel *Onslow* said, he should wish to have the printer released, as he had acted in contradiction to the advice of some members of that House; that he had been credibly informed, two members desired him by no means to obey the Speaker's summons: he said, since that business had begun, the newspapers had been full of libels—that there was a most infamous libel on his Majesty and both Houses of Parliament, printed a few days ago, at the bottom of what was called "An Heroic Postscript;" that no person was a greater enemy to libellers than himself; for they had not only abused and disturbed us at home, but had occasioned a rebellion in America; and he plainly foresaw, unless some stop was put to the present mode of libelling, that both Houses would be obliged to make a Privilege Bill, however disagreeable.

The question passed in the negative, without a division.

March 2. Captain *Phipps* said, he had a petition in his hand from Mr. Woodfall, praying to be released from his present confinement, otherwise it would end in the ruin of himself and family: he said, he did not wish this to be understood as a sufficient punishment for the offence; but that the House would take into consideration the deplorable state to which this would bring an innocent family: he said, the hon. gentleman (Mr. Herbert) who first proposed the confinement, though not present, had commissioned him to declare to the House his approbation: he therefore desired leave to present it.

Mr. *Charles Fox* said, he should not oppose the petition being presented; but he thought the noble lord (North) who had shone so amazingly in this business, and who was so great a lover of the Liberty of the Press, ought to be present, and likewise the original mover of the business: he said, it was pitiful in them to depute another person to declare their will: it seemed as if they were ashamed of their proceedings, which, he said, the noble lord had no occasion to be; for no person could tell yet which side he meant to espouse, by his declarations: he said, the noble lord, the first day of the business, declared,

that should the prisoner petition at ever so early a period, he should not be against it; yet, after a week's confinement, he did petition, and the noble lord went from his word, not out of any regard for the privileges of the House, but merely to please an individual.

Lord *Clare* answered him, saying, the hon. gentleman had paid the noble lord a far greater compliment by chance, than he could well have done had he studied for an hour, which was a thing he seldom did: he said, the noble lord, by complying with an individual's request, of committing to the Serjeant at Arms, instead of the Gatehouse, shewed the goodness of his nature; and said, it was the first time a minister had been arraigned for suffering another to carry his opinion freely.

Mr. *Phipps* then presented the petition, and moved, "That H. S. Woodfall be brought to the bar, and finally discharged, on paying his fees."

Mr. *Fuller* moved, for the amendment, "after being reprimanded on his knees by the Speaker."

Capt. *Phipps* spoke much against the amendment; said it was an unconstitutional motion, a motion of a dangerous tendency, which ought never to be adopted: he said, he hoped never to see a man in this free country pay adoration to any man, or set of men, on his knees; and the man who would submit to such a meanness, ought to be entirely disfranchised from having any power to vote in any affair whatever: he said, they had an instance of their attempting such a thing a few years past, which the gentleman, rather than consent to, had made an exile of himself: he said, those methods might do when the Star Chamber had power to cut off a prisoner's ears or nose; but he sincerely hoped the House would spurn at such a proceeding now.

Mr. *T. Townshend* spoke much in favour of the printer's being released, and against so infamous a method as reprimanding him on his knees.

The question was put, "whether the amendment should stand part of the motion?" and negatived without a division. The question was then put without the amendment, and carried almost unanimously.

The Serjeant was ordered to bring Mr. Woodfall in, when being placed at the bar, the Speaker recapitulated to him the whole of the proceedings from the letter which appeared being deemed a libel, his

being summoned, his attending, giving up the author, &c. and told him, that when the House cleared him, he (sir Fletcher) was entirely satisfied; that whatever else the House had done, was on their own account; that he owed neither him, nor the reverend Mr. Horne, any animosity; but assured him, he forgave them both, and acquainted him, that he was discharged, on paying his fees.

Mr. Alderman Sawbridge's Annual Motion for a Bill to shorten the Duration of Parliaments.] February 15. The order of the day being read,

Mr. Alderman *Sawbridge* spoke as follows:

Mr. Speaker; in treating the subject which I shall have the honour of moving this day, I have heretofore stated to the House what was the ancient constitution of parliaments; what were the benefits this country derived from it; and what inconveniences we have already suffered in consequence of having departed from that principle.

I mean not on the present occasion to go over the ground I have already trodden, but, with the leave of the House, will mention a few of the bad consequences, which, I apprehend, we shall hereafter (and perhaps at no very distant period) feel, if we do not recur to our ancient constitutional usage of short parliaments.

I am apprehensive, Sir, that gentlemen having obtained a seat in this House for so long a term as seven years, may consider themselves possessed of a beneficial lease; may forget what they owe to their constituents; and, instead of employing their talents for the advantage of the public, whom it is their duty faithfully to represent, may resolve systematically to support administration in all its measures, be they ever so weak, be they ever so wicked. I am apprehensive, that gentlemen who have obtained a seat for so long a term, though they come into this House with tolerably pure intentions, falling in the way of ministers, or the procurer for ministers, may be tempted to deviate from the paths of virtue; and when that is once quitted, you know, Sir, how rarely it has ever been regained.

Should this ever happen to be the case, what have we not to dread from such a House of Commons?

May they not have the hardness to reject members chosen by the people, and

place in their stead others appointed by the ministers?

May they not determine, that their resolutions are superior to the law of the land?

May they not arrogate to themselves executive as well as legislative authority, and arbitrarily punish persons who have not been legally convicted of any offence against the known law of the land?

May they not imprison magistrates for having faithfully discharged their duty?

May they not deprive corporate bodies of their chartered rights, without even a pretence of their having committed any thing by which those rights were forfeited?

May they not receive a large portion of the civil-list revenue in pensions, and then grant an addition without calling for an account?

May they not enact laws to make every branch of the royal family abject slaves to the crown?

May they not constantly vote war establishments in time of profound peace; and by mean of enormous consequential taxes, totally ruin the declining manufactures of their country?

May they not (with as much propriety as the triennial parliament, in 1716, voted itself septennial) vote themselves perpetual?

All these mischiefs may be brought to pass in a corrupt septennial parliament, to the subversion of this once free constitution.

I shall say no more at present in support of my motion; but having made it, will attend to any arguments which shall be urged against it. I therefore move you, Sir, "That leave be given to bring in a Bill for shortening the Duration of Parliaments."

Mr. Alderman James Townshend being absent, Mr. Oliver seconded the motion. After a short debate, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Alderman Sawbridge	} 94
	{ Mr. Alderman Oliver	
NOES	{ Mr. Charles James Fox	} 221
	{ Mr. Onslow	

So it passed in the negative.

Debate in the Commons on Sir George Savile's Bill to secure the Rights of Electors.
Feb. 15. Sir George Savile rose to make the same motion which he did last year,

concerning the Middlesex Election, and to bring in a Bill for more effectually securing the rights of the electors of Great Britain. He said, he would not recapitulate the arguments which he had made use of the year before, as, no doubt, the impression of that important subject was still in the minds of many members in that House; that he flattered himself he had this year some glimmering hopes of carrying his question; that the House was not now in that heat and ferment which it formerly was; that truth had now a chance of prevailing; that the House was now in cool deliberation, and no doubt this question, by being calmly considered, might meet with friends, who, in times more heated than the present, were of another opinion; that this was not a ministerial question, it was a question of the people at large; this was not a question meant to stagger and overthrow administration, such a question was the farthest from his thoughts; that he himself would wish to grant the ministry a long lease of their possessions, if this great object might prevail. He then recapitulated the right of electors to delegate their power to persons of a legal description; that, if choice was made properly, it was impossible to choose a man contrary to such description; that the exceeding such description was an injury of the highest kind to the public; that there were certain truths, which, though not described, were yet felt. He said, the people in this country were induced and brought, by the late decisions in that House concerning the Middlesex election, to feel differently from their representatives; that the blood of the people did not trickle in their veins in the same manner as it did in the veins of those whom they had chosen; that the gain of that House, was not their gain; the honour of that House, was not their honour. To this unfortunate situation the House was brought, and he hoped that, by acquiescing in his intended motion, it would not be too late to reconcile matters, so that the people of England and their representatives might not be divided against each other. He therefore moved, "That leave be given to bring in a Bill for more effectually securing the rights of the electors of Great Britain, with respect to the eligibility of persons to serve in parliament."

Mr. Dowdeswell seconded the motion, and used many of the arguments he had formerly done in support of the motion.

Lord North rose, and after observing

the fair and candid manner in which this question was both moved and seconded, said, the mover of it had declared it was not made to stagger or hurt administration, and that he did not believe it was a question of a minister, but it was an important question to that House; he said, if they should lose the incapacity, they at the same time would lose the power of expulsion; that expulsion would be needless without incapacity following; that the question was never contested but twice, and the House had in both instances got the better; that it had never yet been carried, and he hoped to God it never would; that this parliament in the decision had claimed nothing more than its ancestors; that what they had done was highly necessary for carrying on the public business and doing their duty to their constituents; that as to himself, he did not care whether such a question was likely to stagger him in his situation or not, that he should do his duty and give that free opinion upon this question which was consistent with reason and propriety; that as long as he had the honour of a seat in that House, he should give his negative to the question; that his constituents would soon have it in their power to form an opinion suitably to their judgment; that he had yet no reason to think that the major part of the constituents disapproved of what had been done, and he hoped that those whom they might hereafter chuse would prove as great assertors of the privileges of that House, and liberties of the people, as their predecessors.

Mr. Serjeant *Glynn* used much the same kind of arguments as he did last year, condemning the precedents on which the late decision had chiefly rested. He spoke but little, and made an apology that if his mind had led him to trouble the House any longer, his infirmities would not permit him.

Mr. *Howard* rose and said, for his part he should wish to carry his opinion, and agree with that able lawyer, (sir *Fletcher Norton*) who had formerly declared, "that the Resolution of a House of Commons he valued no more than that of a set of drunken porters;" that either that great lawyer must be very wrong in his opinion, or the House very erroneous in their decision; he should therefore now, he supposed, be in that same minority which he had frequently been upon this occasion.

Mr. *Edmund Burke* spoke very ably in support of the question.

Mr. *Van* moved, that the Act of the 9th of William 3, against blasphemy, might be read: which being read, he observed, that if there had been no other reason offered, or precedents brought for refusing a seat to the person who was the object of this motion, that his being convicted of a kind of blasphemy was alone sufficient to keep him out of that assembly.

The debate then ended, and the question being put, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Byng - - - - }	147
	{ Sir Edward Astley - }	
NOES	{ Doctor Burrell - - - }	206
	{ Mr. Hanmer - - - - }	

So it passed in the negative.

Debate in the Commons on Mr. Charles Fox's Complaint of a Libel in the "Public Advertiser," and "Morning Chronicle." Feb. 16. After the private business was over,

Mr. *Charles Fox* rose and said:

Mr. Speaker; the share I have hitherto taken in the matter of libels that has lately occupied the attention of this House, calls upon me at present to take notice of a fresh libel of, if possible, a yet more mischievous and detestable nature, than that for which you have already punished one printer. Sir, the paper I allude to is one that I have in my hand; it is a letter in the *Public Advertiser*, and the *Morning Chronicle* of this morning, signed "A South Briton."* Sir, I esteem

* The following is a Copy of the said Letter:

"Sir; the following curses are by God denounced in holy writ; Cursed is he that curses father or mother; cursed is he that removeth his neighbour's land-mark; cursed are the unmerciful, covetous persons and extortioners. Now, as to the first, surely that man must lie under that curse, who by force drives his father from his possession, and hires people with his father's money to murder him. As to the second curse, if it is a damnable sin to remove a neighbour's land-mark to defraud him of a bit of ground, how great, how tremendously great must that man's curse be, who, although he lets the land-mark stand, yet by force defrauds him of his whole ground and property! And that man who is guilty of the above must certainly be an unmerciful, covetous, extortionable person. This day 84 years, just at the very time the curses of God were by his lawful ministers pronouncing in almost every church in England, Scotland and Ireland, an

it one of the highest and most atrocious calumnies; one of the vilest libels on the constitution of this country that ever was published. It is not an abuse of this person, or that person, but of the constitution of this kingdom: it is a libel upon the glorious Revolution in 1688, and terms it expressly a rebellion against king James. Sir, I am so much an enemy to all libels—to all licentiousness of the press,—though a friend to the legal liberty of it, that induces me to bring libels of all denominations on the carpet. I am, Sir, expressly for putting a stop, and an effectual one, to so scandalous a practice. This which I hold in my hand, is of such an abominable nature, that I am confident there is not a gentleman in the House who will disagree with me on the occasion. I think, Sir, it will occasion no debate: I am sure it will be a dishonour to the House, if there should be a debate on it. The great Revolution was the æra of the liberties—of the happiness of Britain: it was an æra which demands every tribute of honour and applause that the heart of man can give; and he ill deserves a seat in this

herald was proclaiming two undutiful children k— and q— of England, &c. But peace to their manes: they, in a short time afterwards, were obliged to appear where rebellion, perjury, fraud, cunning and deceit would stand in no good stead. But let us see and consider the advantages the subjects gained by that glorious day's work: before that period the subjects were not incumbered with so much as one penny national debt; and the whole of all their taxes united together scarcely amounted to threepence in the pound. Now take all our taxes of every sort united, they amount to about 15s. in the pound, three parts of our whole property (the undoubted cause of provisions being dear) and as the K— goes on, the remaining fourth must soon follow; and suppose the national debt to be 140 millions, which funded and unfunded I believe will amount to that sum, then for every single day since the R—— we have been blessed with an accumulating debt, amounting to upwards of 4,562*l.* 19*s.* 8¼*d.* per day; a blessing on us and our posterity for ever, so sure as the R—— was a blessing, if otherwise a curse and burthen on us and our latest posterity; and all the aforesaid millions were expended to make the poor and distressed states of Holland become rich, high and mighty, the poor electorate of Hanover rich and wealthy, and the subjects of Great Britain and Ireland in poverty, distress and slavery; and since the aforesaid period our governors have coaxed us to part with the major part of our money they did not take by force, and in the room thereof

House, who can tamely sit and see the most infamous libels, the most licentious scurrility, daily exercised on the event, to which, of all others, this country owes the most. I therefore desire, as a foundation for a motion, that the papers be read. [Here the papers were read, both Public Advertiser and Morning Chronicle.] Now, Sir, I move

“That the said Letter is a false, scandalous, and traitorous libel upon the constitution of this country, and tending to alienate the affections of his Majesty's subjects from his Majesty and his royal family.”

Mr. Thomas Townshend:

Mr. Speaker; I do not rise to oppose this motion absolutely, though I think I have an observation to make on it that is worth the attention of the House: it is the amazing stupidity of the performance that has now been read: there is neither wit, sense, spirit, nor understanding in it. I think, Sir, it is too contemptible for this notice. But, Sir, now I am upon my legs, I cannot avoid making a few remarks upon

to give us bits of paper; so that the major part of our remaining wealth is now in their hands; by which means they keep up the following standing armies to keep the subject in awe, poverty, distress, and slavery: a standing army of great placemen, a standing army of excisemen, permit-men, custom-house officers, with the other innumerable company of little placemen, a standing army of devouring locusts, called pensioners, and a standing army of soldiers; by all which means our liberties are become barely nominal, and our paper property of every sort whenever the ——— pleases can be wiped out with a sponge.

“If we consider religion, the church of England flourished before that period; but since that time Popery and fanaticism have increased, especially of late years, to such a degree, that, without the spirit of prophecy, we may foretel that in a few years the church of England will be extinct, unless God in his great mercy preserves us.

“If we look into morality, our governors since that period, by their wicked examples of bribery, corruption, dissipation, gaming, and every species of wickedness that can be committed, have so debauched the morals of the people, that morality is in the same deplorable condition of liberty, property and religion, viz. almost vanished from these once happy isles! On the whole, if a tree is to be known by its fruits, who dare say the Rebellion against k— James was not a g——s R——n?”

“I am, A SOUTH BRITON.”

the hon. gentleman being so assiduous to bring this poor, despicable South Briton to punishment, after permitting so many similar, and more pernicious ones, to walk at large. Sir, I well know, that from the conviction and punishment of Dr. Shebbeare to the present moment, no papers of this sort have been taken notice of. But, Sir, the very contrary has been the case: the revilers of the Revolution, and of the principles of the Revolution, have been applauded, revered, and even pensioned; and to such a conduct it is owing, perhaps, that we have now that despicable libel on the table. Dr. Shebbeare and Dr. Johnson have been pensioned, but this wretched South Briton is to be prosecuted! Sir, all three write with the same tendency, with the same aim, with the same spirit: they all have vilified the Revolution, and have libelled the principles which effected it. Dr. Shebbeare was imprisoned and pilloried by the King's-bench: and yet administration has pensioned him. Dr. Johnson wrote a pamphlet, in which he, too, advanced notions which deserved punishment. Dr. Johnson was pensioned by administration. Dr. Johnson published a second pamphlet of the same stamp with the first. Administration, it is said, (I know not with what truth) had his pension doubled. But now comes a miserable scribbler, who has advanced nothing beyond the spirit of the others, and he is to be punished for what they were pensioned! He deserves it, I admit, and I shall not vote against it; but I wish to see more consistency in some men's actions. Sir, I must go further, and say, that it is not only in the case of these two worthy doctors, but the same thing has branched through various other matters, and that the descendants of those men who brought the Revolution to bear, are not the men who meet with honour at present. Nay, the revilers of those ancestors meet with countenance and protection. I know not if any descendants of lord Russell are in the House (looking about him)—yes, there are some near me, who must admit the truth of what I say. A drop of the blood of Sidney is in my veins: I think it no dishonour; but I think while so much countenance, and even reward, is given to the greatest enemy of the Revolution, and Revolution principles, that it is not being very consistent to fix upon such wretched prey, as the writer of the letter now read.

[VOL. XVII.]

Mr. Charles Fox:

Sir; I cannot subscribe to the propriety of coupling Dr. Johnson and Dr. Shebbeare together. Sir, I should be very much against persecuting a man of great literary abilities, for any opinions which he may happen to drop in works not professedly political. I know not the passages which the right hon. gentleman alludes to, but I must make an eternal distinction between the cases which he represents as the same. The peculiar opinions of men of great literary abilities, who have accidentally dropped them, are not what I think ought to meet with persecution. It would be very far from encouraging literature, which is ever best encouraged in a free government.

Lord North:

The right hon. gentleman has cast a fling upon administration upon account of some pensions given by the crown. I am not answerable for measures in which I had no concern; nor is it a matter on which I should speak here. It would be improper. But, Sir, the right hon. gentleman insinuates very unjustly that administration countenanced reflections on the memory of lord Russell and Algernon Sydney; this is far from being the case. I never saw the work at which he hints (sir John Dalrymple's) till it was published: if the hon. member bought the book, he encouraged the work as much as I did; administration had nothing to do in the case. But, Sir, I must observe, that the reflection thrown on the author is not well founded; I know from the information of a noble lord who resided some time at Paris, and who took copies of the same papers, that sir John Dalrymple published no paper as authentic that he did not actually see and know to be such: as to the truth or falsehood of the papers, it is quite another matter, they may be false—the French minister may have written untruths to his court, but of that the author was not the judge. However, as I said before, Sir, administration could in no respect be to blame in any circumstances relative to that publication.

The motion was carried. After which it was ordered, on the motion of Mr. Fox, "That Mr. Attorney General do forthwith prosecute the author, printers, and publishers, of the said false, scandalous, and traitorous libel."

[3 Y]

Debate in the Commons on the Navy Estimates.] Feb. 21. The House went into a Committee of Supply.

Mr. Buller moved, "That 444,188*l.* 4*s.* 3*d.* be granted to his Majesty, for the ordinary of the navy, including half pay to sea and marine officers, for the year 1774." He prefaced his motion with stating the particulars of what had occasioned this extraordinary demand; some of which were bearing 1688 more seamen than were voted; being obliged to hire watchmen to do the duty the marines had formerly done; several very great repairs to the navy and yards, &c.; that the 4*l.* per month per man was found not sufficient, by reason that biscuit, beef, pork, and beer, were considerably dearer than at the time that price was settled, &c.

Mr. *Dowdeswell* recapitulated the whole of Mr. Buller's reasons for this demand, and answered them all. He was very sorry to see the House so inattentive to business of this importance; that he was much afraid this would be a permanent establishment; instead of our expences decreasing, they were every year more and more; that no one saving had been made but discharging a few cutters; that it would be much more methodical for the gentlemen in the navy department, to make their estimates something near the mark, and not be bringing in after ones, which were always disagreeable; that the accounts appeared to him to be very high, and he should be glad to have a committee appointed to inspect into the navy accounts, and to report what savings might be made, and whether the present demands were necessary.

Captain *Phipps* said, that in his provincial capacity it became him to say something on this matter. He said, in 1771, when the alarm of Falkland's Island was, instead of having a navy fit to curb our enemies' insolence, he was sorry to say we had no navy at all; that what was still worse, we had then no timber in our dock yards, and it was said, that we never should be able to get a stock again; that in the hurry of last war, we were obliged to contract for ships to be built in the merchants' yards; they were to last three years, and so well did the merchants mind their contract, that many of these ships sunk at the expiration of three years and four months; that we should have launched this year twelve ships of the line, and twenty frigates; that our navy was now on so respectable a footing that we could dispatch

any ship at a week's notice; that, after this year, we should have no occasion to employ the merchants' yards, and consequently our expences would be lessened. He spoke greatly in praise of the gentlemen who compose the Admiralty and Navy boards, and said, that a more able person than the first lord of the Admiralty never presided at any board; and, as for the surveyor of the navy, he was the most diligent as well as most conversant man in his office that ever was known; that our expences might be compared to erecting a fence round an estate, which, when once erected, might be kept in repair for a trifle; but as to the discharging of the cutters, it was of the utmost consequence, for it was one of the finest engines a first lord of the Admiralty could have in his hands, as he had such an opportunity of appointing lieutenants to those lucrative and tempting employments.

Mr. *Thomas Townshend* said, he was ashamed to hear any person say, that in 1771, we had no navy; that he was much averse to disbelieve the hon. gentleman; but he remembered in 1771 we were told our navy was in as flourishing a state as the hon. gentleman represented it to be now; that he had always observed there was some excuse for these enormous demands; that he might be suffered to call it by that name, as the hon. gentleman who moved had done the same. He was very severe on administration: he said, in however high a light they might look on the gentlemen that filled the offices of state now, they could not be compared to the administration of Mr. Pelham; that the army was never better governed than by the late duke of Cumberland, nor the navy better than by lord Anson. He spoke much in favour of sir Charles Saunders, and said he was the first person that was always called out on any emergency, and the last person thought of when any honours were to be bestowed.

Mr. *Edmund Burke* made a long and masterly speech; said, he heard the hon. gentleman (Mr. Phipps) speak in a provincial capacity; he should like to hear some gentlemen speak in an official capacity; but, by the great encomiums the hon. gentleman had paid the first lord of the Admiralty, he imagined it would not be long before he spoke in an official capacity. He said, he was sorry to find, that neither the noble lord, nor any of the treasury bench, could give one reason for this enormous expence, other than that

our navy was the bulwark of the nation, and we must support it in defence of ourselves, and to keep our enemies in awe; that he had a very great regard for the navy; but we ought to consider, whether we could bear this enormous expence; that by their own accounts, the expence of the navy took up the whole of the land and malt tax; that all other exigencies were obliged to be thrown on the sinking fund. He said, he owned his ignorance in the nature of their accounts; but when the hon. gentleman talked of fencing in an estate, it was something in his own way, and he had often known more money laid out in fencing in an estate, than the estate was worth, and he was afraid that would be the case in the present instance. He was very severe upon the Navy and Admiralty boards not being able to assign any reasons for the increase of their demands. He said, his hon. friend (Mr. Dowdeswell) was apt to speak facts that were very disgusting to the opposite side; and observed, that they might as well recommend fasting to an alderman at a turtle feast in the city, as œconomy to a committee of supply. He was very humorous in the latter part of his speech, by comparing Mr. Dowdeswell to a solid English joint of meat; and he imagined the noble lord would soon open his budget of mirth, of which he had an amazing stock, and afford us an agreeable desert after dinner: that, by our laying out such an amazing sum on our navy, we might possibly render it useless; for when we wanted it most, if we had reduced ourselves so low that we had no money to pay our seamen, then our fleet would be but of little service.

Sir Gilbert Elliot recapitulated the different expences of our navy from before the Revolution; but did not endeavour to explain what this extraordinary demand was for.

Mr. E. Burke said, the hon. gentleman had been very particular in acquainting us, what occasioned the different expences a hundred years ago, but had not informed us what occasioned the present.

Mr. Cornwall spoke greatly against their not being able to inform the committee what this enormous supply was occasioned by.

The Resolution was then agreed to.

Debate in the Commons on the Bill for making the Grenville Election Act perpetual.] Feb. 25. Sir Edward Astley

moved that an Act,* made in the 10th of his present Majesty, intituled, 'An Act to regulate the trials of controverted elections, or returns of members to serve in parliament:' and also an Act, made in the 11th of his present Majesty, intituled, 'An Act to explain and amend an Act, made in the last session of parliament, intituled an Act to regulate the trials of controverted elections, or returns of members to serve in parliament,' might be read. And the same being read accordingly; he next moved, "That leave be given to bring in a Bill to continue and render perpetual the said Acts." He prefaced his motion by a short speech in favour of the Bill, hoping that the House had seen the utility of it, and said, he thought it a duty he owed his constituents to make so valuable a blessing perpetual. He made an apology for his not being able to say so much as he could wish, owing to his ill state of health.

* The merits of the Grenville Act are thus elegantly described by Dr. Johnson: "The new mode of trying elections, if it be found effectual, will diffuse its consequences further than seems yet to be foreseen. It is, I believe, generally considered as advantageous only to those who claim seats in parliament: but, if to chuse representatives be one of the most valuable rights of Englishmen, every voter must consider that law as adding to his happiness which makes his suffrage efficacious; since it was in vain to chuse while the election could be controuled by any other power. With what imperious contempt of ancient rights, and what audaciousness of arbitrary authority, former parliaments have judged the disputes about elections, it is not necessary to relate. The claim of a candidate, and the right of electors, are said scarcely to have been, even in appearance, referred to conscience; but to have been decided by party, by passion, by prejudice, or by frolic. To have friends in the borough was of little use to him who wanted friends in the House; a pretence was easily found to evade a majority, and the seat was at last his, that was chosen not by his electors, but his fellow senators. Thus the nation was insulted with a mock election, and the parliament was filled with spurious representatives; one of the most important claims, that of a right to sit in the supreme council of the kingdom, was debated in jest, and no man could be confident of success from the justice of his cause. A disputed election is now tried with the same scrupulousness and solemnity as any other title. The candidate that has deserved well of his neighbours may now be certain of enjoying the effect of their approbation; and the elector who has voted honestly for known merit may be certain that he has not voted in vain." See The Patriot, Johnson's Works.

Sir *John Molesworth* seconded the motion. He said, administration had been opposers of this Bill from its origin, but he hoped no member could be now found so destitute of principle as to give his negative to the question; if there were any, their names ought to be exposed to the public, as the encouragers of venality and corruption. He said, a chief motive of his wishing to perpetuate it now was, that, on the general election, possibly a number of young men might come into parliament, who knowing nothing of the merits of the Bill, or who might gain their seats either by weight of purse or a treasury order, would, on the least application from the minister, give their vote for repealing it. He said, he had an hon. gentleman in his eye who could tell the House a good story, which, he made no doubt, would divert them.

Lord *North* said, he thought the hon. members had been too free in asserting, that every person, who gave his negative to the question, was an encourager of venality. He said, no man disclaimed venality more than himself, nor could any man respect the right hon. gentleman (the late Mr. Grenville) more than he did while living, nor revere his memory more now dead. That he looked upon him to be a great political character; but he was certain he never intended this Act to be perpetual, he only meant it as a temporary and experimental act; that no proper experiment had, or could be made, until after the general election: that if it was then found sufficient to answer the end it was made for, he should not be against its being continued: but he thought now a very improper time to perpetuate it, as we had not yet any experiment of its utility. He used no other arguments for his objections, and concluded his speech jocularly, saying, the hon. gentleman who spoke last had paid a great compliment to the present parliament, by supposing no other would render the people so essential a service as making this Act perpetual.

Mr. *T. Townshend* said, the noble lord, as usual when in a bad cause, had forsook argument and endeavoured to divert the House with some of that wit of which he had such an abundant share; but he thought the noble lord had expressed his esteem for the late Mr. Grenville in an odd manner, by voting against his Bill while living, and opposing it now the author was dead. He said, how many trials would the noble lord have of the vir-

tues of the Bill before he gave his consent? Had there not been five already, and had not the decisions of them always been just?—a thing which never happened by the former mode, when only twenty or thirty members attended, and possibly half those asleep during the examination of the evidence; but immediately as the question was put, down stairs came tumbling a number of members who had not heard a word of the trial, and whose only excuse for voting as they did, was, that they were not in their senses! He said, the Bill was founded on such just principles, that it must and it should be made perpetual. He was extremely severe on administration, and arraigned their conduct throughout in a spirited manner.

Mr. *Stephen Fox* said, he should oppose the Bill being made perpetual now, not out of any disregard to the author, but he thought with the noble lord sufficient trial had not been made: and as the Act was made to cover the general election, let us see how it would answer its purpose then; if it was good, he would consent to its being continued for another limited time; and if it was bad, it would expire of itself.

Mr. *T. Townshend* replied to him in a very severe manner; the hon. gentleman's arguments before were generally manly, but now he had made use of as bad as the hon. gentleman his brother generally did, for whose unprecedented conduct he could make no allowance but his youth and inexperience.

Mr. *Jenkinson* said, he entirely agreed with the noble lord that the Act was intended only as an experimental one, and as such he thought sufficient trial had not been had, and he doubted much whether it would not be found defective on trying a county election; he should therefore be against its being made perpetual.

Mr. *James Grenville* said, he very well knew his uncle's intentions, when he made the Bill, were for it to be perpetual, but he found a difficulty in it, and rather than the people should lose so valuable a blessing, he consented to make it for a limited time, not doubting but the utility of it would soon be seen, and then it would be made perpetual. He said his uncle never intended it as an experimental Act, for, before he offered it, he was well assured it would answer; he replied to all lord North's objections in a very spirited and pointed manner, for which he was afterwards applauded by almost every person who spoke.

Sir George Yonge, as an hon. member had said he could tell a good story, would inform the House what it was: a short time since, passing through a borough in Hampshire, he saw several men with cockades in their hats; on his return, seeing more of the cockades, he asked his landlord the meaning, who replied; "Sir, I suppose you have heard of the decision of the Worcester election, it has entirely stopt all trade here; for before we had two agents down from London, who gave and spent large sums of money, by which means the whole town was alive; but what, Sir, is still worse, we hear the House of Commons intend making that damned Act perpetual; if so, our town is ruined, for our chief dependance is on the bounty of those gentlemen that come canvassing, and I am certain we shall never have any more come, if that Act should pass." He said, from this story we might judge what an effect the Act already had upon those who had been guilty of bribery, and he made no doubt that if the Act was now made perpetual, it would deter, in a great measure, any bribery at the general election.

Mr. Ward was much against the old method of trying elections; he said the hon. member was right concerning the members coming to vote on those occasions so intoxicated from Arthur's, or Almack's, that they could scarce stand. They seldom heard a word of the evidence, and yet gave their vote: in the present method, such disorder could not happen, for the committee was to sit from day to day, until the whole evidence was gone through, and their conduct was liable to the inspection of the public, which would keep them in awe.

Mr. Freeman said, he foresaw that, after a general election, when possibly twenty or thirty petitions, complaining of undue elections, were presented, it would be impossible to try them by the present mode in less than the whole session, as the Act allowed but one committee to sit at a time; he should therefore be for the Act continuing to the time it was limited, and not make it perpetual now, as it was imperfect.

Mr. Charles Fox said, he should oppose the Bill, not from the principles the noble lord did, because he respected its author; no, he despised such mean, base, and treacherous conduct; but from a proof that it would be parting with the power and privileges of the House; that if any person,

however unqualified, was to get a majority of votes, by this Act we should be obliged to admit him as a member, and it would lay in the breast of the King and Lords whether the House should have any redress. He was extremely severe on the noble lord throughout the whole of his speech.

Colonel Barré. Sir, I feel an impossibility, upon the present occasion, of giving a silent vote. I feel every motive that can touch a man to call in the most persuasive terms on the House, to protect and continue this palladium of the privileges of this House, and therefore of the whole people of Great Britain. Let us reflect on what was the mode of discussion in these cases: it must be in the remembrance of every man in this House, that the trial of elections was a mockery of all decency and common sense. Sir, we were justly called a court where there were few to hear and many to determine. The open and barefaced prostitution, in what we called trial, in which numbers of witnesses and counsel were heard by a few members, in cases that the whole House voted in, without having heard a syllable of the evidence:—this open prostitution, Sir, I say, was a scandal to the House. What is your mode? By this Bill you throw the trial into a method that is, of all others, the freest from objections, in which every evil in the old method is removed, and every advantage doubled. Would you return, Hottentot like, to your guts and garbage? Surely it is impossible. I am confident the honour of the House will forbid such a determination this day. But, Sir, why does the noble lord contend for the abolition of this Bill? Who can be his adviser appears to me incomprehensible: no friend, I will venture to assert. You have power enough, you have weight enough, you have ways enough of winning the affections of those who come within your walls; why, therefore, will you contend for farther power, which is odious to the people and the constitution? Surely the noble lord would act a more interested part in gaining the friendship and the love of the upright and honest part of the kingdom, by standing up the advocate of the Bill instead of opposing it, when his opposition can mean no better than rendering it ineffectual. Sir, it is being held up to the people as a perpetual security of the rights of election, and a surety that it shall not be a mere temporary trial, to die and leave only a

remembrance of the blessings it might have occasioned, that we want at present: let the noble lord consider the importance of being handed down to posterity as so great a friend to the constitution, by befriending this proposition.

Mr. *Aubrey*. I shall naturally be expected to favour this motion, from the acquaintance I had, very honourable to me, with the author of the Bill before us. For could there be a doubt of its utility, yet the impression which his great knowledge and integrity had made upon all who personally knew him, would alone incline them to respect any plan modelled by him. But were all personal motives removed, I could not help giving my testimony of approbation to this last act of that great statesman, who, unhappily for this country, is now no more. He has, however, left us this Bill, which I trust, from its importance in securing the rights of the people, will be considered as an inviolable legacy to us and our posterity.

The reasons upon which it is founded is well known. The power invested in the whole House of deciding elections was liable to abuse. Votes were determined rather by the influence of parties, than by the merits of the cause: and there cannot be a stronger proof of this, than the thinness of the House in the course of evidence, and the crowds that rushed in at the close of it to give their suffrages to that they could not have examined; inasmuch that, in the other House, a late noble peer, of a very distinguished character (the duke of Argyle) called us, in derision, that tribunal where there are few to hear, but many to judge.

To remedy these mischiefs, the present Bill was framed. And though many gentlemen, in the course of this debate, have laid much stress upon the circumstance of the time for its expiration being limited by the author of it, yet I can take upon me to assure the House, from my own knowledge, that he never meant it as a Bill of experiment. The fact is (and I can appeal to some gentlemen now in the House to bear me witness in the assertion) that Mr. Grenville originally intended to make this a perpetual Bill; but, in compliance with the opinions and solicitations even of his friends, who feared, that, by attempting too much at once, as the subject was as new as it was important, they might lose the whole; and that there might be no complaint of its being hastily obtruded upon the House, he modestly

recommended it only upon trial. And I look upon this as a strong argument of his own conviction, that a trial would only strengthen and establish it. How soon this trial would be made could not be foreseen. It was therefore necessary some period to it should be fixed. But it is clear that a trial has already sufficiently been made in the opinions of many, otherwise we should not have met to-day to debate upon this motion. Has not this Bill proved in fact what it appeared to be in speculation? Has not the decision of every committee been so impartial and just, as to meet with the applause of the whole nation? I am one of those, Sir, who will venture to appeal in particular to that of the Shoreham election. For, whatever may be the opinion of some gentlemen concerning it, it so far received the sanction of the whole legislature, as to be followed by an act of parliament, which I hope to see the great land-mark for future committees to steer by on all similar occasions.

The hon. gentleman (Mr. C. Fox) who spoke last but one seemed to think, that the House, by this Bill, parts with a power it ought to maintain. Others, perhaps, may go still further, and urge the common maxim, that the abuse of a power is no argument against the use of it. This I acknowledge to be true in any one particular instance; but I cannot help thinking, that the frequent and constant abuse of any power is the strongest argument for its total abolition. I leave it to the memories of the oldest members of the House to make the application.

It is, therefore, a power which no honest man would wish to see continued with us. It likewise makes us subject to the influence of a party, which, whenever justice is concerned, can never be exerted but to bad purposes. For how could equity prevail, when every dissent from a friend was held a breach of friendship? On the contrary, this Bill leaves every man independent of party claims; both him from whom it takes the power, and him to whom it gives it; for the latter being bound by his oath, has nothing to listen to but evidence.

Some gentlemen have objected, that, after the next general election, petitions will probably be so numerous as to embarrass a committee with a series of tedious examinations. If this objection should appear well grounded, why may not several committees be appointed at the same

time? The principle of the Bill is, I believe, universally admitted. For the sake of this, therefore, let it be perpetuated; as it will be always open to amendments, and whatever may be the inconveniences of its present mode, I am sure there can be none so shocking in a case of justice and equity as the short question.

A noble lord (North) who spoke early in the debate, expressed his surprise that gentlemen on this side of the House should think so well of this parliament as to choose to trust the fate of this Bill with it. Sir, with regard to what the noble lord alludes to, I am bold to say, there is no man in this House that can more disapprove of some of its past decisions, particularly that of the Middlesex election, than myself. But I am, at the same time, willing to acknowledge its merit, whenever I can. When, therefore, the noble lord asks why we need establish this Bill during the present parliament? I answer, this House of Commons first brought it to light. This House of Commons has experienced its utility. Let us not leave it to another to confirm it. Upon the whole, I cannot help saying of this Bill, what its great author, in the warmth of his zeal and affection, said of the House of Commons itself, *esto perpetua*.

Mr. *De Grey*, jun. spoke a few words against the Bill.

Captain *Phipps* said, no person could object to the old mode of trying elections more than he did, for it was an insult to common sense to call themselves a court of judicature, on several elections which he had seen tried, to one of which he was applied to attend, but gave his vote against his friend, for which it was said he used him ill. He said the House used always to be a scene of confusion, during the trial of an election, and, if the petition was founded on bribery, it was laughed at. He afterwards spoke much in favour of the present method, and said, he agreed with the hon. member who seconded the motion, that any person who objected to it was an enemy to his country.

Colonel *Burgoyne*, in a spirited speech, set forth the utility of the Act. He said the plunder of Asia had been distributed about this country in such a manner as made it necessary for some stop to be put to the growing evil, otherwise no natural interest or merit would ever be able to gain a seat; he therefore sincerely wished the Act might be made perpetual, as it would deter many a young nabob from

squandering away his fortune, in hopes of a seat at the general election.

Lord *George Germain* said, he well remembered the iniquitous proceedings on former trials of elections, the parties used to apply to one set of the House to be their managers, another set to give their attendance and interest; to a third set, with whom they were intimate, they would apply for their vote; and to the lazy part of the House they would say, 'We won't trouble you to attend the dry examination of a parcel of mean evidences; only let us know where you will be, and when the question is going to be put, we'll send you a card.' Such were the proceedings of former trials; and he was certain, every member, who had seen both methods, would give the preference to the latter. As to the arguments used by the hon. gentleman (Mr. C. Fox) they needed but little reply; for it was absurd to think the House, by this Act, gave away their privilege, as every member had a chance of being one of the committee if he chose to attend. It was ridiculous to say that the Act was defective, and let it pass on so until the term it was made for. No, let it be made perpetual now, and if there were any amendments to be made, they could be made afterwards; it was dangerous to let slip such an opportunity, as not knowing who would be minister at the expiration of the Act; he might be a great enemy to the Bill; and as for a person saying, 'let the Act go on as it is now, when its time expires, I will not be against renewing it;' he would be bound to say they would not have it in their power to give a second opinion on it, if they let the present occasion slip them; he said, the author of the Bill had preserved a good name while in office, and when out; and he sincerely hoped the noble lord would endeavour to have his name handed down to posterity with the same honour as Mr. Grenville had.

Mr. *Welbore Ellis* said, it was highly ridiculous to make this Act perpetual now, though he loved the Bill: for as the noble lord (North) had said, a proper trial of its merits had not been made, and it was consistent with the rules of the House in all commercial bills to make them temporary, until proper proof had been made of their utility: he said, the encouragers of the Bill had endeavoured, with the zeal of lovers, to protect it, but he was confident it would deceive them at the last.

Mr. *Dunning* made an apology for his

cold, and said, no person had a juster right to be against the Bill than himself, for it had hurt him much in his professional capacity; for, since the Act had been put in execution, not one trial had come into Westminster-hall; and he was confident, was the Act made perpetual, there never would be one; yet he would always sacrifice private emolument to public good: he expatiated much on the merits of the Act, and would venture to say, at a general election, it would be found (even with all its defects as had been stated) a glorious Act.

Sir *Gilbert Elliot* made a long speech respecting the privileges of parliament in the reign of Elizabeth, but mentioned not a word of the merits or demerits of the Bill, only said, he should oppose it now.

Mr. *Edmund Burke* was at once satirical, masterly, and eloquent. He attacked the minister in the most pointed terms; called upon his boasted honesty to support the perpetuity of the Bill; he said, though the noble lord was daily deserted by numbers, he would still be deserted by more, for there were men in that House, not like the minister, tired of being honest. In addressing the House, he said, we have the noble lord now, let him not slip through our fingers; trust not to his specious promises a single hour; his smooth-tongued plausibility is calculated only to deceive; let us at once finish the business by making the Bill perpetual; and if it stands in need of amendments, they can be considered afterwards, but let us have no shuffling off—no delay—no previous question.

The *Solicitor General*, in a long and masterly speech, expatiated on the foundation of the Bill. He was very severe on Mr. Charles Fox, who, he said, had dreadful apprehensions of losing his privileges; but did he think, if an old woman were to petition the House, her petition would be referred to a committee; and if it was, could he have any apprehensions from the decisions of the committee? No. But if the young gentleman was not of such an obstinate disposition, he would endeavour to convince him of his error. He spoke much in favour of the decision of elections that had been tried by this Act, and concluded with giving his consent to its being perpetual.

The *Attorney General* spoke against the Bill being made perpetual; he attempted to ridicule the methods prescribed by it; he said, what was the word 'nominee,' but manager; and contended that a person

stood no better chance of having a fair decision from the present method than he had from the former.

Lord *George Cavendish* answered the whole of his objections in a spirited manner, and reminded him that both the judges and evidences were on oath by the present method, which they were not in the former.

Mr. *Stanley* made nearly the same objections to the Bill as lord North.

Sir *George Savile*, in an animated speech, went through the whole of the objections to the Bill, which, he said, amounted to nothing; he afterwards expatiated much on its merits, and was for its being made perpetual.

Sir *W. Meredith* spoke much in favour of the Bill, but was averse to any reflections being thrown on the noble lord.

Mr. *Dowdeswell* spoke in favour of the Bill, and mentioned the decision of the Worcester election.

Mr. *Rigby* was greatly against the Bill, and contended that treats ought to be given at elections; he said, the Act would suit the elected, but not the electors: he was much against the decisions that had been given by the different committees that had sat; he said they had disfranchised Shoreham and not Worcester, which was much more corrupt than the former: and mentioned another instance which happened at New Windsor; he said none of those practices were so infamous as those practised by people who had burgane tenures.

Serjeant *Glynn* answered him very smartly, and was much in favour of the Bill being made perpetual.

Governor *Johnstone* said:—Mr. Speaker, I should not rise at this late hour of the night, if I did not think I had something new to say on the subject, notwithstanding it has been so much exhausted. I therefore beg the House will indulge me, by hearing a few words as the reasons for my vote. I conceive the Bill, as it now stands, to be a most beneficial Bill; so far from altering the constitution, I think it is only recurring to the first principles of our government, trial by jury. Nevertheless, I should deem it arrogance to pronounce decisively upon any regulation of government, however flattering, on general principles, without a sufficient experience, so various are the springs of human action. If this question, therefore, could be discussed and determined with equal fairness, at the expiration of the term limited by the Bill,

I should certainly wish to give it the trial originally proposed; but, since that is impossible, as I apprehend, I shall now vote for making the Bill perpetual.

My reasons for believing it hardly possible the Bill shall receive a fair decision on its merits and experience three years hence, are these: it is clear this Bill diminishes the power of the minister in all controverted elections; at a general election, it may be calculated at not less than thirty members. Unless, therefore, we can suppose he shall prefer the public good to his own interest (which I will never suppose of any minister), he will endeavour to get rid of the Bill by every insidious art. We must all be sensible of his power and opportunities, and therefore we should embrace this happy moment of rendering the task more difficult, especially as it always remains in the breast of the House to make such alterations as may be necessary, and even to annihilate the Bill, if it should (contrary to the experience we have already had, and to all human foresight) prove pernicious.

I here lay down my axiom—"This Bill is contrary to the interest of the crown or the minister." And with all due deference to the memory of Mr. Grenville, I believe if he had been minister that he would not have proposed it; nay, I believe that he would not have permitted it to pass. A happy coincidence of circumstances forced it on the House. A strange coalition of parties now favours its final confirmation, before men dare forget their former declarations, and before the golden bridge is completely formed to pass them through the ivory gate.

Another reason strikes me stronger. If the Bill is permitted to run to the last stage, notwithstanding this House may then pass it unanimously, the House of Lords may reject it. Every man must feel the difference between reviving a Bill when expired, or keeping it alive when yet existing. In the same manner we must see the difficulties between destroying a Bill, and permitting it to fall in the prescribed course. It is like murder and a natural death. I think, therefore, we should look to the preservation of this Bill in due time, that in case the Lords should prove refractory, or ministerial arts should be practised upon them, we may have time to enforce our wishes respecting this Bill by the means the constitution has put in our hands.

I see a right hon. gentleman laugh
[VOL. XVII.]

(Mr. Rigby); this puts me in mind of another argument; he has boldly declared his objections to the principles of the Bill. It is probable he may become minister of this country. I am sure he has my good wishes; but that I may wish it with all my heart, I desire this Bill may be perpetual, that I may have no reserve in the good-will I bear him. For these, and many other arguments which have been already used, I heartily concur in the motion.

Mr. Dempster said, it was needless to compare the difference between the present and former methods; for those who would oppose this Bill would not hear any reason.

The question for leave to bring in the Bill being put, the House divided. The Yeas went forth.

Tellers.

YEAS	{ Lord Guernsey - - - }	250
	{ Mr. Byng - - - }	
NOES	{ Mr. Onslow - - - }	122
	{ Mr. Charles James Fox }	

So it was resolved in the affirmative.

A List of the Members who voted for perpetuating the Grenville Act.

Allanson, Charles	Cavendish, H.
Allen, Benj.	Cholmondeley, Nat.
Ambler, Charles	Clarke, G. B.
Acourt, lt. gen.	Clavering, sir T.
Astley, sir Edw.	Clayton, sir Rob.
Aubrey, J.	Clayton, Wm.
Bacon, Edw.	Clive, George
Baker, Wm.	Codrington, sir W.
Barré, Is.	Coke, W.
Barnes, Miles	Cornwall, C. W.
Bailey, Nat.	Coventry, Tho.
Bennet, R. H. A.	Cocks, sir C.
Benyon, Rich.	Cotton, sir J. H.
Bertie, lord B.	Cox, Rd. H.
Blacket, sir W.	Crosby, Brass
Bond, J.	Creswell, T. E. jun.
Bootle, R. W.	Curwen, Hen.
Boscawen, E. H.	Cust, sir B.
Brett, Charles	Damer, hon. J.
Brickdale, M.	Damer, hon. G.
Bridgeman, sir H.	Damer, J.
Bridges, sir B.	Davers, sir C.
Buller, J. jun.	Dawkins, Hen.
Burgoyne, maj. gen.	Dempster, Geo.
Burke, E.	Dillon, hon. C.
Burke, W.	Donegal, earl of
Bull, Fred.	Dowdeswell, W.
Calvert, N.	Downe, lord visc.
Carnac, J.	Drake, Wm. sen.
Cater, J.	Drake, Wm. jun.
Cavendish, lord G.	Dummer, Tho.
Cavendish, lord F.	Dunning, John
Cavendish, lord J.	Egerton, sir T.

McKenzie, rt. h. J. S.	Scudamore, C. F.
Martin, Sam.	Sefton, earl of
Melbourne, lord	Selwyn, George
Montgomery, James	Skryne, William
Moreton, John	Stanley, H.
Murray, hon. col.	Sloane, Hans
Norton, William	Stevens, Philip
North, lord	Stephenson, John
Ongley, rt. hon. ld.	Stewart, William
Onslow, George	Symonds, Richard
Osborne, sir G.	Spencer, lord Rt.
Palmerston, visc.	Townshend, Charles
Parker, gen.	Thurlow, Edw.
Phillipson, col.	Tucker, J.
Penton, Henry	Vernon, Rich.
Pitt, George	Vernon, Charles
Phillips, Griff.	Wallace, James
Powlett, A.	Walpole, hon T.
Pye, admiral	Webb, Nat.
Purling, John	Whitworth, sir C.
Rainsford, lt. col.	Wynn, sir T.
Rumbold, Thomas	Wynn, Glynne
Rigby, R.	TELLERS.
Robinson, John	Onslow, rt. hon. G.
St. John, h. lt. col.	Fox, hon. C. J.
St. John, hon. J.	

Proceedings in the Commons on the Booksellers' Copy-Right Bill.] Feb. 28.

Mr. Alderman Harley presented a Petition from the booksellers of London and Westminster, on behalf of themselves and others, holders of Copy-Right, setting forth,

"That, by an Act passed in the 8th of queen Anne, for the encouragement of learning, by vesting the copies of printed books in the authors and purchasers of such copies, during the times therein mentioned, the authors or proprietors of such books as had been then printed, were to have the sole liberty of re-printing and publishing the same, for the term therein mentioned; and that the petitioners have constantly apprehended, that the said Act did not interfere with any copy-right that might be invested in the petitioners by the common law; and have therefore, for many years past, continued to purchase and sell such copy-rights, in the same manner as if such Act had never been made; and that the petitioners were confirmed in such their apprehensions, in regard that no determination was had, during the period limited by the said Act, in prejudice of such common law right; and the same was recognized by a judgment in the court of King's-bench, in Easter term, 1769; and that, in consequence thereof, many thousand pounds have been, at different times, invested in the purchase of ancient copy-rights, not protected by the statute of queen Anne, so that the

support of many families does in a great measure depend upon the same; and that, by a late decision of the House of Peers, such common law right of authors and their assigns hath been declared to have no existence, whereby the petitioners will be very great sufferers, through their former involuntary misapprehensions of the law: and therefore praying the House to take their singularly hard case into consideration, and to grant them such relief in the premises as to the House shall seem meet."

Mr. Harley moved, that it be referred to a committee.

Mr. Sawbridge seconded the motion, saying, that by a decision in the year 1769, in favour of copy-right, many of the booksellers had laid out their whole fortunes in that article, which right had now been taken from them by a late determination; and if some redress was not given them, many families would be totally ruined.

A committee was appointed accordingly.

March 24. Mr. Feilde reported from the Committee, to whom the Petition of the booksellers of London and Westminster, on behalf of themselves and others, holders of copy-right; and also the Petition of John Christian Bach and Charles Frederick Abel, on behalf of themselves and several other composers and proprietors of books, works, and compositions in music, were severally referred; that the Committee had examined the matter of fact contained in the first-mentioned Petition; and had also examined the matter of the second-mentioned Petition; and that the Committee had directed him to report a state of the facts contained in the first-mentioned Petition, and also the matter of the second-mentioned Petition, as it appeared to them, to the House; and he read the Report in his place.

A State of the Matter of Fact contained in the first-mentioned Petition, is as follows; viz.

It appeared, that by an Act of parliament, passed in the 8th of queen Anne, intituled, 'An Act for the encouragement of learning, by vesting the copies of printed books in the authors and purchasers of such copies, during the times therein mentioned,' it was, amongst other things, enacted, That, from and after the 10th day of April, 1710, the authors or

proprietors of such books as had been already printed, should have the sole liberty of re-printing and publishing the same for 21 years, and no longer: then your Committee proceeded to examine

Mr. William Johnston, who had formerly been a bookseller, but had left off business; who said, he entered into business in 1748, and left it off in June last; during which time, he attended all the capital sales of copy-rights: that, on his first entering into trade, he purchased the whole stock of books and copy-right of Mr. John Clarke, for which he paid near 3,000*l.*; above one half of which sum was for copy-right: that the sales are open to the whole trade; but he never knew any but booksellers apply to be admitted; that, from that time, he continued to purchase copy-right to the amount of near 10,000*l.* more; and believed three-fourths of the books in trade had his name, as part proprietor, especially the old copies; the rights to which are expired, according to the Act of queen Anne: that many of them had been printed above 28 years; and that he never imagined the Act of queen Anne interfered with the common law right; and it was most undoubtedly the general idea of the trade, before the late judgment in the House of Peers, that the booksellers had a perpetual right in the copies they had purchased of authors, and their assigns, by the common law; and, if any doubts had been entertained before the late determination of the court of King's-bench, that judgment would certainly have removed them.

Being asked, Whether he did not claim a copy right in some of the editions of the classics, *in usum Delphini*? he said, No such right was ever claimed, so as to exclude any other person who chose to print them: that he had purchased the right of printing in part some of those classics; but never supposed that right protected by any law, nor considered it in any other manner than as the purchase of an honorary right; which he explained to be a maxim held by the trade, not to re-print upon the first proprietor: that, in the sum of 12,000*l.* mentioned to be paid by him for copy-rights, some shares in the classics *in usum Delphini* are included; but to the best of his recollection such shares do not amount in the whole to 100*l.*

Being examined as to the book called The Tatler, he produced sir Richard Steele's assignment of the copy-right; and said, He had heard that the Tatlers

were originally published in numbers as news-papers.

Being examined as to his title to a share in Cambden's Britannia; he said, He never heard of, or saw, any assignment from Cambden; that it was bishop Gibson's edition of Cambden, of which he purchased the share; that he knows not what bookseller first printed Gibson's Cambden; and has bought many shares in books without looking into the title.

That the purchase deed does not specify any assignment from Cambden, nor was it requisite; that Cambden's original work was in Latin, and translated by Dr. Gibson, afterwards bishop of London; that he believes there were two or three editions printed of that translation, and one particularly within these four years, from a corrected copy of the late bishop, which edition cost the booksellers 800*l.* and the edition before that, was 18 years in selling off; that the consideration given to Mr. Scott, for the copy with the said corrections, was only a few copies of the book, for presents to his friends; that he never heard there was any assignment from Cambden, but has always understood that the translator of any work, is protected in the right to his translation by the common law.

That had he imagined a common law right not to exist, he should not have laid out so large a sum on a precarious title; nor did he recollect ever to have heard the common law right talked of, till agitated in the court of King's-bench; that they always took assignments from those of whom they purchased, which they supposed to be assignments of the common law right; and he produced an assignment of the Guardians, from sir Richard Steele.

That he never heard of either common law or statute right being inserted in an assignment, but supposes and always understood, that when a man sells all his right and title for ever, it means a common law right, independent of any statute; and that is the idea on which the trade have always acted in purchasing shares of copy-rights; and that he never saw a term of years mentioned in an assignment: that he purchased his share in the Guardians, at Tonson's sale, the 18th of August, 1767 and sir Richard Steele's assignment in 1713, and that he had never met with any interruption in that right, since he purchased it.

That he never saw or heard of any assignment, where the second term of 14 years,

mentioned in the Act of queen Anne, was reserved to the author; but that undoubtedly he gets more money for his copy for 28 years, than he would for 14, and sells the chance of the reversion, when he assigns it for ever: that all the assignments he has ever seen, ancient and modern, run in general to the bookseller and his assigns, for ever; and some of them go so far as to bind themselves, their heirs and executors, to protect the purchaser, his heirs and executors, in the full and free enjoyment of such copy-right for ever: and he produced to your Committee, the assignment of Dr. Robertson to Andrew Millar, of the History of Scotland; which appeared to be of that form.

Having mentioned several other books of which he had purchased shares, and, among others, Dryden's and Locke's Works, he said, He had no assignment of Mr. Dryden, but bought it at Mr. Tonson's sale (and one of the assignments at Mr. Tonson's sale was produced)—That he had never seen an assignment of Mr. Locke's works, and never heard any question about it before; but he really believes there was an assignment, which belief he founds upon the practice of the trade; for that the person selling was never required to shew or deliver up the original assignment; for in the purchase of this property, they never enquire into the title, if they have an opinion of the seller.

That it is always presumed in the course of trade, that a long possession of copy is a proof of title from the original author; that sums to a very large amount have been laid out upon this presumption; and that he, in particular, should never have laid out so large a sum as he had done, if he had entertained any other idea of it; and that he never enquired into the length of time that the seller had been in possession of the copy, in case he thought the vender to be an honest man.

Being asked, where a copy-right is divided into many shares, where a person might learn the several proprietors of those shares? He answered, that when a book is re-printed, the general rule of the trade is, that the man who has the largest share makes up the account, and every person claiming a share in that work gives in his claim, and has his proportion according to his share; so that any person wanting to know who are concerned in such a work, by applying to the person who makes up this account, may get the information; and the person who makes up these accounts,

sends written summonses to all whom he knows to be concerned.

That he knows of no prosecution at common law, against any person either in town or country, for printing any book unprotected by the statute of queen Anne; that such books have been printed, but there was a much easier remedy than an action at law, for by filing a bill in Chancery, the booksellers always obtained an injunction, and by the answer given the bookseller could ascertain the damage he had sustained, as the defendants were obliged to declare the number they had printed: that he never made use of this remedy but once, which was in the case of printing the Pilgrim's Progress, written by John Bunyan, which was printed by one Luckman, of Coventry, who delivered up all the books, paid the expences, and promised never to offend again: that this affair was made up by private agreement, Luckman made the proposal, and the witness accepted of it: that the title he set up to the Pilgrim's Progress, was by purchase of the stock of Clarke aforesaid, among which was assigned to the witness, by Clarke's executor, the whole of the copy of the Pilgrim's Progress, but he did not look into the title which Clarke had to it; and that he can suggest no other reason for Luckman's delivering up the copies and paying the expences, than that he thought he was doing an unlawful act: that it is the custom of the trade, as he always understood, to prosecute offenders, in cases of piracy of copies, at their own private expence; and that the witness himself prosecuted at his own expence in two instances, the first about eighteen years ago, and the other about three or four.

That he never consulted any counsel in making the purchases of copy-right, but laid out his money, upon the general opinion of the common law right.

Being asked, whether, in the course of trade, the undisturbed possession of a copy-right, by any bookseller, has not been deemed such a presumption of an assignment from the original author, as to warrant persons to lay out their money in the purchase of it? He said, he always was of that opinion, and never would have laid out the sum he did, if he had had any other idea of it.

That when an author chooses originally that his name should be concealed, no other proof than possession can be had of his assignment; or if the author chooses to make a voluntary present of his work to

a bookseller, it would appear very inconsistent to ask such a thing; and upon the prevalence of such presumptions, original assignments are not always carefully kept and transmitted from hand to hand, as titles, when the transaction has been a long time past, the nature of the trade not admitting of it.

That, had a doubt existed in the mind of the witness of the principle of the common law right, it would have been entirely removed by the frequent injunctions granted, unappealed from, and submitted to; and he certainly should have been the more inclined to lay out his money in copy-right, and to have given larger sums for such purchases, upon the authority of such injunctions.

Being asked, if he knew any one injunction which turns upon the claim of common law right, independent of the statute? He said, he recollected but one, and that was Tonson and Walker, in regard to Milton's *Paradise Lost*: that he never took a lawyer's opinion of the common law right, because he thought it unnecessary; and never heard the question agitated till it came into the court of King's-bench, and then three, if not four of the judges were clear as to the common law right; there were two causes agitated in that court, one, Tonson against Collins, when three judges sat there, two of whom are dead, and one retired (Mr. Justice Denison, sir Michael Foster, and sir Eardley Wilmot) and the opinion of the court then was in favour of the common law right; and in the case of Millar and Taylor, in the year 1769, a judgment was obtained in favour of such right: that, in the said case of Tonson and Collins, the court of King's-bench did not proceed to judgment, because (as he hath been informed within these two or three days, and collects from sir James Burrow's reports) lord Mansfield declared, in giving judgment in the case of Millar and Taylor, that the reason of the court's not proceeding to judgment, in the case of Tonson and Collins, did not arise from any difference of opinion in the judges of that court, but because they understood that it was a collusive action.

That, upon his quitting business, he assigned his property in copy-rights to his son, on condition he should be jointly bound with himself to pay all his creditors; who, not doubting of the validity of the security, readily consented to it. Upon which the copy-rights were valued by Messrs. Longman and Cadell, two booksellers of the

first reputation, at between 8 and 9,000*l.*; and the witness believes they would have sold for that sum in June last, when he quitted business; but that since the determination in the House of Lords, they would not sell for a fourth part of that sum; and had there remained a doubt in the mind of the witness of a legal property in those copies, exclusive of the statute of queen Anne, he should never have involved a son, who had a genteel fortune left him by his grandfather, to take them as a security for any debts the witness owed.

That if relief is not granted in the present session of parliament, so many books will be printed, both in London and the country, as will make it impossible to grant the sufferers redress, without injury to the other publishers.

Being asked, What had reduced the value of the copy-rights, between the time of his purchasing them and transferring them to his son? He said, That many circumstances contributed to reduce the value of copies: most books are capable of improvement, in all arts and sciences; that a copy this day may be worth 500*l.* which, in a twelvemonth, may not be worth 5*l.*; because other works of a like nature come out with improvements, which render the old books on the same subject of no value; and a new edition of a work, with improvements, after the purchase made, lessens the value of the copy for a time.

Being asked, Whether when booksellers buy a copy-right, they do not, at the same time, buy all the copies then printed off? He said, they frequently do, and frequently not; but they never re-print any copy under that predicament, until the books remaining are sold off.

Being asked the question, he said, That when he sold his property in copy-right to his son, it was known among the trade, that there was an appeal depending before the House of Lords, upon the point, Whether there was any literary property at common law? but that the witness, and the trade in general, was so well confirmed by the determination of the court of King's-bench, that he thought there was little or no risk at all; for, that had such a doubt existed in his mind, he could have sold that property some years ago, for nearly as much, if not the whole it cost him. And that he knows not of any sale of copy-rights derived under authors at common law, since the determination in the House of Lords; nor of any within six months previous to that decision, except his own.

Being asked, Whether, in his opinion, if relief is not granted in consequence of this application, there is not a danger of valuable books being out of print, from a dread of competition, by the multitude of copies that may be printed by different booksellers, in different parts of the kingdom? He said, that would certainly be the consequence as to elegant editions.

That he thinks a month before the late decision in the House of Lords, he could have disposed of his property in copy-rights for a very inconsiderable loss.

Being asked, Why it was not the custom of those who are possessed of copy-right, to enter them in the books of the Stationers' Company? He said, he could only answer for himself, that he never thought the penalties prescribed by the Act of the eighth of queen Anne were worth contending for, as a much shorter and more complete relief might be had, by filing a bill in Chancery; that the trade of a bookseller is circumscribed by no law, nor any bye-law of the Stationers' Company; and every man that pleases may set up in the business, without an hour's servitude to the trade; and the wholesale booksellers in London, solicit the country booksellers to supply them with books.

Then the agent for the petitioners produced to your Committee, copy of a judgment of the court of King's-bench, in the cause of Millar against Taylor, in the seventh year of the reign of his present Majesty in the year of our Lord 1766; whereby it appeared that Millar recovered against Taylor 1s. damages, and 60l. costs.

Mr. John Wilkie, clerk to the booksellers' public auctions, produced to your Committee an account, whereby it appeared that the sum of 49,981l. 5s. had been laid out at such public auctions since the year 1755, in money for copy-rights; in which account the money laid out by private contracts is not included. Then

There was produced to your Committee, copy of a judgment of the House of Lords, upon the appeal of Alexander Donaldson and John Donaldson, and the answer of Thomas Becket, Peter Abraham De Hondt, John Rivington, and others, respondents; whereby it is ordered and adjudged by the Lords spiritual and temporal, in parliament assembled, that the said decree complained of in the said appeal be reversed.

In support of the allegations of the second-mentioned Petition,

Mr. Augustine Greenland informed

your Committee, that doubts have arisen, whether the right granted by the Act of the 8th of queen Anne to the authors of books, extends to the authors of books or compositions in music: that Mess. Longman, Lukie, and company, and one Thoroughgood, have published the compositions of masters in music, apprehending such compositions were not within the intention of the said Act of the 8th of queen Anne; but that the witness had not taken the opinion of counsel upon it.

Mr. Feilde said a great deal in favour of the booksellers, as to the hardship of their case, and how they had been led astray by the decision of the court of King's-bench in 1769. He concluded with moving, "That leave be given to bring in a Bill for relief of booksellers, and others, by vesting the copies of printed books in the purchasers of such copies from authors or their assigns, for a time therein to be limited."

Mr. Attorney General Thurlow was against the booksellers; he said, they were a set of impudent monopolizing men, that they had combined together and raised a fund of upwards of 3,000l. in order to file bills in Chancery against any person who should endeavour to get a livelihood as well as themselves; that although they had purchased copies from Homer down to Hawkesworth's voyages, which, he said, was very low indeed, that Hawkesworth's book, which was a mere composition of trash, sold for three guineas by their monopolizing; and observed, that the booksellers were highly censurable for not having taken counsel's opinion whether they had a right in copies or not, and not to rely solely upon the decision of the court of King's-bench. He said, they had not proved any thing in the Committee, neither did he think they had any claim to the protection of the House. He was exceedingly severe on the booksellers of London throughout the whole of his speech, and much in favour of Donaldson.

Mr. Dunning, in a masterly speech, answered all his objections: Were the booksellers, he said, to go dancing about town, to all the coffee-houses and inns of court, to ask attornies' clerks, whether a decision in their favour in the court of King's-bench was binding or not? No: they relied solely on the opinion of lord Mansfield, whom they thought superior to any other advice they could receive. He entered very fully into the merits of the booksellers' case,

mentioned a number of instances in their favour, and said that his honourable and learned friend, not a month since, was of opinion that the London booksellers were in the right; but since the decision of the House of Lords, and Mr. Donaldson had become his client, he had changed his opinion.

Mr. *Greaves* spoke much against the booksellers; he said, he had attended the committee, and found that the person who was examined as a witness was a party concerned; that he had put a considerable number of questions to him concerning what the booksellers had lost by the late final determination of the House of Lords, but he could get no direct answers; that it was shameful to allow a monopoly in books; they might as well allow a monopoly of any thing else; that monopolies always enhanced the price of goods; that being fearful of being undersold by the booksellers of Edinburgh was idle, for no person would purchase an Edinburgh book when he could get an English one, for the Scotch editions were generally incorrect, and not fit for a gentleman's library.

Mr. Solicitor General *Wedderburn* answered him very smartly; he said, as to no persons buying a Scotch edition because they were incorrect was a mistake; for persons must buy them before they could find out the faults, and that the lowness of price was a great temptation; as to the petitioners being reprehensible for not having taken counsel's opinion, that was idle, for, as the hon. gentleman (Mr. *Dunning*) had said, were they to enquire of an attorney when they had the opinion of the first judge in the kingdom? He was extremely close upon the Attorney General, who, he said, could not be serious in what he had alleged; that as to the witness being a party concerned, he was not, for he had proved to the committee that he had sold the copy-right he had bought for 12,000*l.* to his son for 9,000*l.* and that by the late decision in the House of Lords it was imagined it would not now sell for 4,000*l.*

Colonel *Onslow* said he would inform the House, the reason why Mr. *Johnstone*, the witness, did not answer the questions; it was because they were improper; that he was present in the committee at the time the questions were asked, one of which was, "Have not the booksellers entered into a combination to prosecute any person that shall reprint

their works?" He said, he told the committee then, that if the member insisted on his question he should put one, which was, "How many acts in your life have you committed for which you deserve to be hanged?" He said he only remembered one instance of such a question being put, which was at Guildford, where an old fool of a criminal was brought before an old fool of a justice for horse-stealing; the justice, who was in his dotage, said to the criminal, "I suppose you have many times stolen cows and calves as well as horses, an't you?" The criminal being tired of his life, but not having resolution enough to put an end to his existence, replied, "Yes, an' please your honour." The consequence he said was, the man was hanged. He afterwards told another humorous story of the committee driving the witness out of the room with a flaming sword, like the angels driving out Adam from the garden of Eden. He spoke much in favour of the booksellers, and said he heartily wished they might have relief.

Mr. *Dempster* said, the hon. gentleman alluded to him, as the person who asked the improper questions; however improper the questions might be, he believed they were true; he really thought the petitioners had not the least right to expect any relief from the House, for that Mr. Donaldson had, at a prodigious expence, obtained a verdict in his favour from the first court of law in the kingdom, and it was cruel, to the highest degree, to endeavour to wrest that verdict out of his hands.

Mr. *Edmund Burke* set forth the absurdity of the arguments that had been urged against the petitioners; he said, there could not be a clearer proof of the justice of their cause, or a stronger reason for them to think themselves right, than judge *Blackstone's* selling his book to a bookseller for a large sum, and afterwards maintaining the opinion of the booksellers right to literary property. He spoke much in favour of *Blackstone's Commentaries*, which he said were now, and always would be esteemed; and when the booksellers had the opinion of so able a judge on their side, he thought they had a just right to imagine themselves secure in purchasing a copy-right. He was exceedingly smart on the Attorney General, who, he said, now, was an ornament to the bar, and he made no doubt, from his conduct, but he would soon become an ornament to the Bench. He spoke much

in favour of the booksellers, and said he should give his hearty consent to a Bill being brought in.

Lord *Folkestone* said, he did not mean to oppose the Bill in this early stage, but he should move an amendment to the motion, by leaving out from the word "others" to the end of the question, and inserting "purchasers of copy-rights, within a limited time."

The question being put, that the words proposed to be left out stand part of the question; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Feilde - - - } 50
 { Mr. Ald. Sawbridge - - - }

NOES { Lord Folkestone - - - } 25
 { Mr. Graves - - - }

So it was resolved in the affirmative. Then the main question being put, That leave be given to bring in a Bill; the House divided. The Yeas went forth.

Tellers.

YEAS { Mr. Burke - - - } 54
 { Mr. Whitworth - - - }

NOES { Mr. Attorney General } 16
 { Mr. Charles James Fox }

So it was resolved in the affirmative.

April 22. Mr. Feilde presented the Bill to the House. Whilst the Bill was reading,

Mr. *Dempster* called the attention of the House to it, as it was a Bill to reverse a decree of the supreme court of judicature in this kingdom. He then presented a Petition from the country booksellers against the Bill.

Lord *F. Campbell* presented a Petition from the booksellers of Glasgow against the Bill.

Colonel *Onslow* said, he was astonished to hear any person make such a declaration, as Mr. *Dempster* had done; for the Bill was not founded on any such principles; it had not any connection with the decree; that he should be far from espousing the Bill was it meant for that purpose; that he held what the Lords did to be the law of the land; but it was no new thing for an application to be made to the Commons for redress against laws, when they were particularly hard and cruel; that he firmly believed there would have been no occasion for the Bill, had the judge, who was silent on the occasion in the Lords (lord Mansfield), delivered his opinion;
 [VOL. XVII.]

he said, it was what he ought to have done; by their opinions people were to be guided; for those purposes they had large salaries, and no one of them ought to be above their office.

Mr. *Feilde* agreed with the hon. gentleman, that, had that learned judge given his opinion, this Bill would not now have been before the House; but on account of the trial in the King's-bench, the booksellers had laid out great sums in copy-right, so much, that unless some relief was given them, they must inevitably be ruined; that as to this being a Bill to reverse a decree of the Lords, that was entirely wrong, which the hon. gentleman would see, was he to look into it.

Mr. *Dempster* said, the Bill was only meant to serve a few individuals; that many persons had signed the petition for it through fear, threats, &c.; that the case of Mr. Donaldson was extremely hard; he had been dragged through all the courts of law both in this kingdom and Scotland, and at last to the House of Lords, where he had obtained a decree for to carry on his business in the way which he always had done. That this Bill was not meant to restore the law concerning copy-right as it formerly stood, but as the individual booksellers of London thought it stood; he said, he should not oppose the order for the first reading, but would undoubtedly attack it whenever it was read a second time, and hoped that some time would be given for the perusal of the Bill.

The Bill was ordered to be read a second time on the 4th of May.

May 10. The said Bill was read a second time. The Petitions against the Bill were then read, and the counsel for the petitioners were heard.

Sir *John Dalrymple* appeared on their behalf. He began with declaring that a large number of the men who had signed the Petition for the Bill were proprietors of those infamous news-papers which had traduced the sovereign and abused the members of each house of parliament. He dwelt much upon this idea, and was by no means sparing of his severities on the booksellers, positively asserting that they entirely governed the news-papers; and that after having in the most bare-faced and scandalous manner abused every gentleman present, and every person in existence, the old for not being young, the young for not being old, the poor for not being rich, and the rich for not being poor:

after having called a man a scoundrel if he accepted a place, and a fool if he resigned it; after having vented every calumny which impudence and ignorance could give birth to, he said they came now and asked favour from the very objects of their abuse. Of late he owned there had been an alteration in the public prints, and scandal and traduction had less prevailed; he would inform the House the reason why there was such a cessation of abuse, where it began, and when it would end. It began as soon as the present Bill was thought of, and it would end as soon as it was disposed of. He advised the members to throw out the Bill for that reason; for while the booksellers had the Bill in pursuit, they would keep the news-papers free from scandal, and every man might read them with safety. At any rate, he would wish the House to grant the monopoly prayed for, for seven years only, by which means the term would expire a year before the next general election but one, and they might in the parliament after, grant a fresh monopoly for seven years more; by such a measure, the members would be sure of being abused only for six years at a time. If they granted the Bill, he would advise them to read no news-paper all the summer, to avoid seeing themselves traduced. For his part, on account of what he had then said, he had ordered that no English news-paper should come within his doors for three months. After a great deal more of this sort of foreign matter, sir John went into the history of the statute of queen Anne; insisted on it, that the booksellers well knew from the passing of that Act, that there was no common law right, and therefore their plea of having been deceived by the determination in the court of King's-bench, was exceedingly fallacious and groundless. He contrasted the Bill prepared under Dr. Swift's auspices, with the present one; spoke of the different requisitions of each, gave the petitioners the title of monopolists, talked of the general bad tendency of monopolies; and what abuse might not be made of monopolies, if in the hands of unjust men? He had himself in the House of Lords first mentioned a new Bill, but he meant a Bill of compromise, and not a Bill of opposition. If the petitioners had applied to him, he would have drawn up an unobjectionable Bill, which could not have failed of success. He justified the extravagant price of Hawkesworth's *Travels*, although he abused the peti-

tioners; and having vented many ill-natured observations on them, he described the state of the counter-petitioners, enlarged on their unfortunate situation, and was extremely copious on the merits of his client Mr. Donaldson. He entered into a description of the mode of trading in Glasgow, particularly their exportation of books, for which he declared they gave eighteen or twenty months credit, whereas if they sent to London for English editions, they could only obtain six months credit. The present application, he said, was contrary to all law and all usage. In the worst of reigns it never had been attempted to alter and destroy the effect of a decision of a supreme court of law. That the House, by granting the present Bill, would sanctify an *ex post facto* law, which was by no means the proper object of legislation. He had observed, he said, that it was ever the fashion to ascribe the ill of the times to some particular country. In the reign of James the 1st all the ill came from Scotland; in the reign of Charles the 1st all the ill was supposed to come from Spain; in that of Charles 2, all the ill came from France; in that of William all the ill came from Holland; in the reign of George the 2nd all the ill came from Hanover; and now the circle seemed to have come round, and all the ill came from Scotland again.—He could not conclude, he said, without clearing up a point respecting himself. It was generally found, that the arguments of a counsel went a great way, especially if he was an honest man. It had been thrown out against him, that after having sold the copy of a book, which had the misfortune universally to displease, although it was universally read; which had been said to have been printed under the patronage of kings and ministers, although it was never seen by either till it was printed; of this book he was charged with having sold the perpetual and exclusive right of multiplying the copy for 2,000*l.* and immediately afterwards taking an active part to destroy the value of the very property which he had so disposed of. This insinuation was, he said, as false as it was scandalous; for that immediately after the decision in the House of Lords he went to Mr. Cadell and told him, that if any loss accrued from the event of the decision, he would sustain it himself, and would not suffer it to fall on Mr. Cadell. Sir John concluded with informing the House, that he should call in some witnesses.

The first witness was Mr. Merrill, sen. of Cambridge, who proved that he had, in 1759, received two letters from J. Whiston, a bookseller, purporting that a committee of London booksellers was appointed to prosecute the sellers of pirated editions; he talked of two more letters, which he said would shew the House the iniquitous practices of the booksellers of London, who had combined against the Scotch and country ones; but as he could not produce the originals, nor tell what was become of them, the House would hear no farther from him.—The next person was his son, who being asked the same questions as his father, would not speak positively to any thing he was asked, particularly if he did not know that Scotch books were bought by the London booksellers, who printed a new title page purporting them to be English editions.—The next was Mr. Murray, who was asked a considerable number of questions by Mr. Murphy, one of the counsel for the petitioners, and cross questioned by Mr. Mansfield; most of his answers seemed rather favourable to the cause of the London booksellers.—The next was a Mr. Fox, who spoke a considerable time; but as most of it was hear-say evidence, it was not attended to.—The next was Mr. Bulkley, who was but a young bookseller, and was asked but few questions.

The chief thing they all seemed to complain of was, not being admitted to the booksellers' sales, which, they said, were held at the Queen's Arms in St. Paul's Church-yard, and Globe tavern in Fleet-street; that they had known instances of country and Scotch booksellers being turned out from those sales: but, on cross examination, it appeared they had been turned out for misdemeanors, for breaking through the rules observed at sales, &c.—There appeared among the persons who had signed the different petitions against the Bill, weavers, old clothes-folks, chandler's-shop men and women, a person who keeps the stall upon the wall in Parliament-street, &c. The House was almost a scene of laughter during the whole of the evidence, which was very long.

After these evidences, Mr. Wallace, solicitor for Mr. Donaldson, was called in, who stated, that it had cost Mr. Donaldson 1,000*l.* in thirteen different Chancery suits, which had been brought against him by the London booksellers, but on explanation and cross examination, it appeared,

that many of those suits were for printing books that were protected by the statute of queen Anne, two in particular, Shenstone's Works and Yorick's Sermons.

After he had finished,

Mr. *Arthur Murphy*, another counsel for the petitioners against the Bill, made his remarks on the evidence. He began with observing, that the Bill prayed for, was a very extraordinary attempt to defeat the laudable and successful endeavours of an individual, to obtain common justice; the plea urged by the petitioners, he affirmed, was repugnant to every principle of law: that there was no maxim more general; no maxim so notoriously inviolable, as that the ignorance of the law could not be urged or received as a palliative or an excuse; the petitioners, he observed, were remarkable for mistaking the law; two of them, some time since, employed one Gurney, a short-hand writer from the Old Bailey, to take down a farce universally approved of, and much followed: this farce was called *Love A-lamode*; and Mr. Macklin, the author of it, found it his interest to keep the copy in his closet, and not to publish it; but two of the petitioners taking a liking to it, accommodated Mr. Gurney with a convenient seat in the shilling gallery of the theatre, on one of the nights on which it was acted; and in a periodical publication, the first act was soon afterwards re-tailed. Mr. Macklin remonstrated with the two petitioners on the illegality of their conduct, and the unfairness of pirating an unpublished copy; the only answer he could get was, that it was their property; they had purchased it of Mr. Gurney for two guineas, and therefore they had a right to print it. Mr. Macklin applied to the court of Chancery, an injunction was immediately granted by lord Northington, and that injunction was made perpetual by the lords commissioners of the great seal in 1770. At length, therefore, the petitioners were convinced that they had mistaken the law. A case in point occurred to him; a few days ago Mr. Tyson, the legal claimant to an estate, brought his action of recovery against Mr. Clarke, who had been in 30 years undisturbed possession of it; the matter was tried in the Common Pleas, where the claim was made good, and the jury gave a verdict for the claimant; there could be no doubt but Mr. Clarke would be very glad to obtain an act of parliament giving him 14 or 21 years further possession. If a Bill,

immediately granting relief to those who had bought an estate, which was clearly discoverable to have no title, passed into a law, the table of the House would be loaded perpetually with petitions of a similar nature with that of the booksellers, and the whole business of the session would be to remedy the losses incurred by ignorance and folly.

After he had finished his remarks, Mr. Feilde moved, That the farther hearing of counsel be deferred till the 13th, which was agreed to.

May 13. The House proceeded to the further hearing of counsel upon the said Bill.

Mr. *Mansfield* was heard in favour of the Bill. He opened his speech with a description of the purport of the Bill, its tendency to relieve the petitioners, and give a further time to authors than the term allotted by the 8th of queen Anne: he then entered upon a reply to the objections advanced by the counsel for the counter-petitioners, in substance as follows:

My clients, Sir, have been treated by the learned gentlemen of the other side, with every term of reproach which their ingenuity could frame; they have held them up as oppressors of their poor brethren, as members of an illegal combination, and as men ever ready to put in practice any thing, however cruel, however criminal, if it promoted, or was likely to promote their own interest; witnesses have been called to prove these assertions, but after a long examination it has been found impossible to adduce one tittle of evidence to support the matters alleged against the petitioners; on the contrary, those who have been examined at your bar, have rather established than destroyed their merit; Mr. Merril, indeed, did not fully speak his mind; Mr. Merril knew, Sir, that the subscription entered into by the petitioners was for the purpose of buying up such Scotch editions of those copies which they conceived to be their property, and which the country booksellers had ignorantly taken from the piratical printer; the petitioners might have put the country booksellers to great expence, by commencing prosecutions; instead of that, Sir, they were unwilling to trample on the fallen, they raised a purse to indemnify those who had got Scotch editions, and out of this purse they paid them for those editions; this, Sir, was their oppression, this was their cruelty. The

learned advocate has gone a great way to support his clients: he has drawn Scotland into the scrape, and has brought one bookseller from Glasgow to prove the magnitude of the export trade of that city. This evidence, Sir, told you that of late years that city exported books to the amount of 10,000*l.* per annum. I desired he might be asked who were the exporters? He told us, the booksellers of Glasgow. He was asked how many? and I expected to have found that 1,000 persons dealt for the enormous sum of 10*l.* a year each, but the witness says only a few; and when asked if those few dealt for 10,000*l.* he says, they and their connections. Now, Sir, "their connections" is, I confess, a happy expression, though somewhat unintelligible. Does the witness mean the butcher, the baker, the draper, the taylor, the hosier, the barber, and the washerwoman of the booksellers he alludes to? for I presume they are all connected with them. The witness told you that the Glasgow merchants exported some London books, and some of these he confessed were pirated editions with the names of the London booksellers affixed to their title pages.

An attempt has been made to insinuate that the petitioners are nationally prejudiced against the Scotch booksellers; Sir, I will not think so degradingly of this House as to suppose that the members of it can be influenced by any prejudice; distress is of no country; this House will only consider if the petitioners are men in distress, and if they find them so, as I trust they will, they will doubtless grant them relief.

Another matter urged against the petitioners is, that they are proprietors of the news-papers. Some of the petitioners, Sir, have shares in the public prints; so have several country gentlemen; but they have no more to do with the printing and direction of those papers than you, Sir, sitting in your chair. I do not wonder at the learned advocate's being loud in reprehending the news-papers; no language can be too severe, too opprobrious for them, Sir; they not only attack the characters of King, Lords and Commons, but they have the insolence to traduce authors and their productions; even that learned, that admired volume, that prodigy of historical merit, the *Memoirs of Great Britain* by sir John Dalrymple, has not escaped their malice; Sir, they have dared to question the veracity of that renowned historian, and

after such daring, can any thing too virulent be urged against them?

A further objection made to my clients is, that they have excluded the counter-petitioners from their sales at the Queen's Arms and Globe taverns. You have learnt by the evidence examined to this point, that those they did exclude were notorious for selling pirated editions; and, Sir, I will tell you a further and the true reason for excluding the counter-petitioners; the sales are upon credit from three months to three years; now if the poor part of the trade were admitted, as the sales are by auction, they might bid and buy to a large amount, they might make immediate advantage of their purchase, and when the day of payment came, the proprietor of the sale might look in vain for his money; the keeper of a chandler's shop might have quitted trade, and the retailer of books on a wall might have moved his quarters.

A great argument has been made by the gentlemen of the other side, of Mr. Donaldson's public spirit, of his great patriotism, and the abundant scale of his merit: Sir, sinking as that scale is with its weight, I will contribute to its preponderation: patriot Donaldson, Sir, has still greater attributes than his counsel have given him; he is not only, as they have described him, an excellent printer, and an admired bookseller, but, Sir, he is more, he is the rival of the famed Eustathius, he is, Sir, an editor and a commentator; he has refined upon the edition of Pope's Homer, published by the poet himself, by expunging no less than 23,851 lines from the notes; these lines, commentator Donaldson thought unnecessary, and therefore he left them out of the edition I now hold in my hand; perhaps, Sir, mean spirits may say, that it would not have been less honest, if he had specified in the title what was omitted, and given the unwary purchaser some intimation of the disappointment he was to meet with in perusing the book; but the fact is as I have stated it.

It has been strongly contested on the side of the counter-petitioners, that the petitioners were not at all mistaken respecting the non-existence of a common law right, and that the decision of the King's-bench did not deceive them. Sir, from the immense sum, full 100,000*l.* expended in copy-right; it is evident that they did misconceive, and I do not wonder at it, when I recollect that the highest court of law in Westminster-hall equally miscon-

ceived it, and that five of the judges, when giving their opinion in the House of Lords, immediately previous to the late determination, were also of the same sentiments; but, Sir, I will add to these, a still greater authority, the authority of commentator Donaldson: for, Sir, it follows naturally that he either was very ill advised, or that he and his advisers thought all along that there did exist a common law right, otherwise, instead of his being harassed with 13 suits, he need only have been troubled with one. It was in his power, Sir, to have put in his answer, and brought the question to a final decision within the space of one year, and at the small expence of 100*l.*; this is a fact not to be disputed, Sir, and it is evident from this great patriot, this learned commentator's pursuing a different line of conduct, that he did not dream that he was warranted in printing the books he published, but that he thought it worth his while to print on, and snatch up such advantages as he could gain, previous to the possibility of the copyholders being able to get proof sufficient to ground a prayer to the court of Chancery for an injunction. The prosecutions then so tremendously stated, were all of Donaldson's seeking, he had nobody to blame for them but himself, and it is evident he thought, as well as the petitioners, that there did exist a common law right; besides this, I have in my hand an authority which will, I doubt not, be admitted on the other side. It is a letter, Sir, from a great author to a learned judge, complaining of the piratical practices of Scotch and Irish booksellers. This proves that the petitioners alone were not without reason jealous of the Scotch printers. This letter speaks the language of the heart, it describes things as they are, it wears no artificial dress; it differs, Sir, exceedingly from the light in which the learned advocate on the other side has painted the printers of Glasgow; it records not their glory—it only speaks of their speculation.

It has been urged, that laying the trade of printing open, would be of service to letters, and of service to the public; I deny both positions; and I have by me letters of Mr. Hume, Dr. Hurd, Dr. Robertson, Dr. Beattie, and other writers of established reputation, containing the warmest wishes to the petitioners, lamenting the late decision of the House of Peers, as fatal to literature, and hoping that the booksellers might get speedy relief. To prove that

laying printing open would be a public service, the learned advocate has told you that he saw an edition of Thomson's Seasons sold for 3*d.* in Scotland: considering the price of paper, of types, and the manual labour, you, Sir, will judge what sort of an edition this must have been. Sir, authors must shudder at what may happen to their works, if the printing trade continues open. Ignorant and careless printers may totally reverse their meanings, and destroy the force of their arguments. I tremble, Sir, for the fate of the learned author of the Memoirs of Great Britain; may not his work be mutilated, transposed, and altered; may we not hereafter see the name of Barillon substituted for that of Sidney; and may not the infamous creature of a minister be held up as the most disinterested and able patriot this country ever knew. Sir, if the trade continues open, not only authors but booksellers and printers will suffer; already is the destruction of some of the latter working. I have information here, that there are now in the press in Scotland no less than five or six different editions of Young's Works; this, Sir, is the copy of a letter from Mr. Creech, bookseller in Edinburgh; he says that in every little town there is now a printing press. Cobblers have thrown away their awl, weavers have dismissed their shuttle, to commence printers. The country is overrun with a kind of literary packmen, who ramble from town to town selling books. In the little inconsiderable town of Falkirk there is now set up a printing press, and there are several editions of the same book carrying on in Berwick upon Tweed, in Edinburgh, in Glasgow, in Dumfries, and in Aberdeen. The continuing printing an unrestrained trade will be of infinite mischief; it is a trade of so peculiar a nature, that it can be compared to no other; it must be governed by rules of its own, and it must of necessity be restrained within some compass. Mr. Donaldson has no right to say that this Bill is injurious to his interest, he has already every advantage a reasonable man can wish: this Bill does not preclude the sale of his large stock; he tells you he has expended 50,000*l.* in printing; this Bill ensures him a sale, and ensures likewise that he shall have no competitor in the market. Is not this a real and a substantial benefit? The petitioners, Sir, have every plea to urge in their behalf; but their claim to relief is so self-evident, that I shall not trou-

ble the House with a long examination of witnesses; when my learned coadjutor concludes his argument, I shall only call one evidence to prove that their Petition is incontrovertibly true.

Mr. Hett, the other counsel for the London booksellers, coincided with Mr. Mansfield, and concluded with warmly urging the plea of the petitioners.

Mr. Mansfield was then desired by the Speaker to produce his witness, when Mr. Wilkie was called to the bar and asked several questions, to which he gave very clear and satisfactory answers. The substance of his information was as follows, in reply to the questions put to him, viz. That he had acted 19 years as agent for the London booksellers, that during the said time the sum of 65,986*l.* had been laid out in purchasing copy-right; three-fourths of which, if not more, he imagined was protected by the statute of queen Anne. That he had seen a list of the names of the counter petitioners, who are all, a few excepted, sellers of books on walls, at the corners of streets, and at the doors of alehouses. That when he is employed to make sales for his brethren, he invites the booksellers by a printed catalogue, which is generally delivered two days before the sales. That he frequently sent 60 or 70 catalogues, seldom less than that number; and never omitted inviting any person in the trade, but such as had not made their payments regular. That the credit given to the purchasers at the said sales was three, six, nine months, and so on to three years; and it would be extremely hazardous for the proprietors of those sales to sell their books to some of the persons who have signed the counter-petition. The counsel in favour of the counter petitioners having said, that of 85 persons who signed the London booksellers' Petition, only 20 of them had property; Mr. Wilkie declared, that all, except nine, had considerable property in copy-right. Upon a cross-examination Mr. Wilkie's replies to the questions put to him gave the House the following information:—That in 1759 he signed a circular letter to the country booksellers at the instance of a committee of the London booksellers, who had entered into an association, not for the purpose of prosecuting the country booksellers, as the elder Mr. Merrill had informed the House on the Tuesday before; but in order to relieve the country booksellers a subscription was made to pay all such booksellers who had

bought any pirated books through mistake, which was often done, as the pirates printed books with the proprietors' names at the bottom. That the committee was composed of Mr. Millar, Mr. Tonson, Mr. Ward, and he believed Mr. Rivington; it consisted of about five or six, most of whom are dead. That he engaged a warehouse to put the books received by the country booksellers in. That he delivered some of them by order of the committee, but the greater part were burnt by the fire which happened at London House.

The counsel were then ordered to withdraw, and Mr. Wilkie was asked if he possessed any copy-right, and what? He answered that he had shares in Boyer's, Bailey's, and Dyche's Dictionaries, Maitland's History of London, Tatlers, and many other capital books. He was ordered to withdraw.

A debate then ensued respecting the competency of his evidence.

Governor *Johnstone* objected to its admission, and desired it might be expunged from the book, as the witness was evidently interested in the event of the Bill.

Mr. *Burke* answered the governor, and observed that the sort of evidence necessary to the present question needed not juridical competency, it was merely evidence of information; and information could only be gathered from an interested party; he supported his observation by instancing the case of Mr. Payne, a witness on the Linen Bill, and added that the House were wrong in admitting the evidence on Tuesday.

Mr. *Charles Fox* replied to Mr. *Burke*, and said it was true where the tendency of a Bill was to further the public interest, the evidence given at the bar needed not juridical competency, but as the present Bill was to give a private compensation, it required evidence nicely competent. Mr. *Fox* was supported by sir Richard Sutton and several others.

Mr. *Dempster* said, that if the witness was not a petitioner, he conceived his evidence perfectly admissible.

A debate of an hour ensued; upon the division, however, there were 75 for the competency of Mr. Wilkie's evidence, 9 against it. When he was again at the bar,

Mr. *C. Fox* proposed, that the witness be asked, "whether it was his opinion that if the invasion of copy-right was deemed felony without benefit of clergy, it would be for the benefit of the public?" the ludicrousness of this question occa-

sioned fresh cavil. The counsel and witness were again ordered to withdraw. Mr. Dunning hoped the hon. member would not urge so absurd a question; Mr. *Burke* solicited his withdrawing it; Mr. *W. Burke* mentioned the complex nature of it; Mr. *Turner* spoke on the same principle; Mr. *Walsh* and Mr. *Moreton* hinted, that they would move the question of adjournment, if it was not withdrawn: Mr. *C. Fox*, however, persisted in desiring it to be put. The witness and counsel were again called in, and it was put, when Mr. *Wilkie* said, he hoped the honourable House would excuse him from answering the question; which was almost unanimously agreed to. His examination was then closed; and Mr. *Murphy* arose, to reply to what had been urged by the petitioners. As soon as Mr. *Murphy* had finished, a debate arose whether the Bill should be committed, or whether the House should be adjourned.

Mr. *Burke* spoke in favour of the petitioners for some time, he instanced the sale of *Blackstone's Commentaries*. If, said he, the university of Oxford, one of the eyes of this kingdom, chose him the professor of laws, allotted him the task of instructing youth in the most important of all studies; if the King afterwards appointed him to distribute justice and interpret the laws, if he sold his copy, was it for a bookseller to question his title? But this is only one instance out of many; the petitioners have sustained a loss, they are men in distress, the question is, what sort of relief we ought to grant; the learned advocate has told us, that glory is the only reward sought by the Scotch booksellers, let them have their glory,—let the petitioners have property—we will not quarrel about terms. Mr. *Burke* was for committing the Bill: governor *Johnstone* answered him, and said, his arguments all cut double.

Then the question being put, That the Bill be committed; the House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Feilde - - - - }	36
	{ Mr. Wilbraham Bootle }	
NOES	{ Sir George Savile - }	10
	{ Sir Richard Sutton - }	

So it was resolved in the affirmative.

A motion was then made, That this House will, upon Monday, resolve itself into a Committee of the whole House,

upon the said Bill; the House divided.
The Yeas went forth.

Tellers.

YEAS { Mr. Cavendish - - } 35
 { Mr. Whitworth - - }

NOES { Mr. Attorney General } None
 { Mr. Charles James Fox }

So it was resolved in the affirmative.

May 16. The order of the day being read for going into a committee upon the Bill,

Mr. *Charles Fox* rose. He began with saying, that he hoped the House would not be guilty of such imprudence as to act contrary to a standing order, which said, that no private Bill should be committed until eight days after the second reading. He mentioned the manner in which the business was conducted on Friday night and Saturday morning last, saying, it was hurried through by a few people, for he could not call them a House; for on the division they were obliged to count the four tellers and the Speaker to make forty. He was exceedingly severe on the booksellers in general, and concluded with moving, that the Bill be committed for Thursday se'nnight.

The *Attorney General* seconded the motion. He said, they came and asked a favour of the House, under a pretence that authors would be benefited, which he denied; for it was meant entirely for the benefit of a few individual booksellers, who ruled the whole trade. He said, the members who were for the Bill seemed to triumph, but he was sure it was in a wrong cause; and that if they went into a committee on it then, it was contrary to the express standing order of the House, and to all rules of justice.

Mr. *Burke* observed, that there was a material difference between a standing order and a discretionary rule. This, he said, was a discretionary rule, made for a discretionary reason, and might be dispensed with for a discretionary purpose. He entered into the various logical distinctions between the one and the other, clearly shewing, that the former was of a fixed indispensable nature, the latter framed for occasional purposes, and might, without any difficulty, be waved as occasion required. With regard to the Bill, he declared it was founded upon the *summum jus*, and nothing could controvert it but *summa injuria*.

Mr. *Feilde* remarked, that the ma-

nœuvre practised at the close of the debate last Friday evening was, indeed, a most glorious, a most admirable one, and he hoped it would be handed down to future ages.

The *Attorney General* said he did not really conceive the difference between a standing order and a discretionary rule. When the House entered a rule in their books, he thought it was to be a maxim of parliament not to be departed from. As to the manœuvre spoken of as so glorious a matter, it was a fair, regular proceeding: the gentlemen in favour of the Bill had desired him to use candour on the occasion; to which he had replied, that he should as soon give up his senses: this reply had been twisted to another meaning, and they had related his answer as a declaration that all candour was folly. This was, he said, what men of genius called a hit; and he was frequently the subject of these hits, and the laughter they created. The argument of the *summum jus* was what scholars termed a sounding argument: it was indeed trusting more to sound than sense to say, that the *summum jus* of the counter-petitioners was properly opposed by the *summa injuria*, in which the Bill had its foundation.

Mr. *Burke* replied to the *Attorney General*, and said, that no man living knew better how to give such hits than the learned gentleman himself, as he had fully proved by the notable reversion of his application of the terms *summum jus* and *summa injuria*. He confessed he had worn a risible countenance, which was provoked by the wit and ingenuity of the learned gentleman who spoke last. Laughter, he observed, was of different kinds, and one was a complimentary sort. He would not now enter into a defence of the Bill, or the plea of meriting compassion, which the petitioners had, but he conceived he could not only give satisfactory proof of that, but could also prove, that the counter-petitioners, whom the learned gentleman spoke so highly of as parties who were about to lose their right, were no better than thieves who had escaped justice. Mr. *Burke* again asserted, that the order ought not to be attended to. He shewed, that the cause of its being made was, that the parties who were interested in a private Bill might not be taken by surprise. This could not be now said to be the case; the counter-petitioners had enjoyed every benefit arising from delay. The Bill had been near three

months in the House. A counsel had found time to travel, he would not say post-haste, for that was beneath the gravity of the profession; but he had found time to go to Glasgow, and return to town with a whole waggon load of Scotch arguments. These arguments had been doled out at the bar; two long days had been spent in hearing learned pleaders state the merits of the counter-petitioners; they had examined several witnesses, and appeared perfectly satisfied with their evidence. It could not be urged, that the opposers of the Bill had not fully understood the whole of the subject; nay, it was evident that they knew every clause in the Bill; for he held in his hand a series of observations and objections to every single clause. The counter-petitioners had, therefore, every advantage they could reasonably desire; and as a part of the order, the pasting up notice in the lobby, had never been followed respecting committees below stairs, so he conceived the whole of it was inapplicable, and might be dispensed with on the present occasion.

Mr. *Dempster* said there was an absolute necessity for the order being enforced, for he had been assured by the counter-petitioners, that part of the evidence offered on Friday was groundless, which they could prove by affidavits.

Governor *Johnstone* said, he conceived that the order held equally with respect to committees below, as committees above stairs: that the pasting up notice of the former was unnecessary, as the printed votes gave sufficient warning. The governor declared, he was sorry he had misconceived the meaning of the supporters of the Bill last Friday, for when the question for adjournment was carried in the negative, the plain common sense of the matter told him, that the Bill was necessarily to be debated, and he entered into debate accordingly. Speaking of the little confidence to be placed in the printed hints, put into the members' hands in the lobby, he said it had been urged by some writers of hints and observations, that Dr. Johnson had received an after gratification from the booksellers who employed him to compile his Dictionary; this was a groundless assertion, for he had in his hand a letter from Dr. Johnson, which contradicted it; he then read the letter, in which the doctor denied the assertion, but declared, that his employers fulfilled their bargain with him, and that he was satisfied. The governor then said, that the

[VOL. XVII.]

hon. gentleman, (Mr. Burke) who on Friday last mentioned 7,000*l.* as the price paid by one of the petitioners for the copy of Blackstone's Commentaries, was mistaken. The sum paid, as appeared by the original assignment, which he had seen, was 4,000*l.* out of which the purchaser received stock in printed books, &c. to the amount of 1,400*l.* so that the net receipt of the seller was only 2,600*l.* which the governor conceived, even within the term allowed by the statute of queen Anne, the buyer might get back. After stating this particular, governor Johnstone went into a recapitulation and enlargement of those arguments against the Bill which he urged on Friday.

Mr. *Fox* persisted, that both the spirit and the letter of the order were against the commitment of the Bill, and moved, "that this House do enter into a committee on the Bill next Thursday se'n-night."

Mr. *Mackworth* thought the petitioners deserved some relief, but could not see that the present Bill was such a one as deserved the countenance of the legislature; with respect to the order in question, he saw no reason why it should now be dispensed with, but he thought that Friday next should be substituted in Mr. Fox's motion, for Thursday se'nnight.

Mr. *Fox* rose to explain that, as the House adjourned next Friday for the holidays, Thursday se'nnight was the first open day.

Mr. *Whitworth* said the notice pasted in the lobby was merely a notice to the members, not to the public.

Mr. Sawbridge, Mr. W. Burke, and Mr. Burke, said that Mr. Feilde's motion ought to be put prior to Mr. Fox's, for that out of the civility which ever prevailed in that House from one gentleman to another, Mr. Fox had been allowed to speak what he said would only be a few words previous to Mr. Feilde's motion, although that gentleman was on his legs to put his motion.

Mr. *Fox* said, it was *utrum horum mavis*; for that both motions would have the same effect.

Mr. Fox's motion was rejected. A debate then ensued, whether the Speaker should leave the chair.

Lord *Folkestone* opened it with a speech against the Bill; his lordship began with stating the law-history of the Act of queen Anne, and tracing the conduct of the petitioners from the year 1709 to the

present time, the whole of which he urged as a proof that they never did misconstrue the law. His lordship observed, that lord Mansfield, at a very early period of his life, was employed as counsel for the petitioners, the idea of the existence of a common-law right was a favourite idea with his lordship, and he could not but remark, that most of the judges who gave their opinion coincident with lord Mansfield's sentiments, had been puisne judges in the court of King's-bench. His lordship disclaimed any other motive of his opposition to the Bill than a necessary parliamentary consideration of the rights of the public, which consideration now obliged him to object to the Bill.

Mr. *Feilde* entered diffusively into the principle of the Bill, and its tendency. He shewed, from a variety of historical facts, that the petitioners were mistaken, and that they did not wilfully misconstrue the law. He said, that the assignment from Blackstone, the assignment of Milton, and the assignments of Mr. Hume, Dr. Robertson, and Dr. Beattie, were all expressly 'for ever.' This sufficiently proved that those celebrated writers thought there was a perpetuity. Milton especially, that great friend to liberty, would never have let such an assignment go out of his hands, if he had entertained a contrary sentiment. The booksellers were not those oppressors of authors which they had been described. They not only paid liberally for copies, but they frequently gave an author as much for corrections and additions as they originally paid for the first copy. He instanced, among other proofs of the booksellers liberality, the purchase of Dalrymple's *Memoirs*, a book which, in the most barefaced manner, traduced the noblest of all characters, upon the testimony of such a wretch as M. Barillon, the weakest and most unable minister ever employed by a bad king. He did not venture to assert, that a determination of the court of King's bench could make the law, but he would positively declare, that it was very likely to induce the petitioners to misconceive the law. The matter prayed for was not a monopoly. He only wished the relief to be for such copies as the petitioners had really purchased and could shew assignments for; this, therefore, would leave an ample field for Mr. Donaldson and the Scotch booksellers to exercise their ingenuity, and produce elegant editions of a variety of learned authors. All the

classics, Bacon, and many of our best old English writers would remain open. But while the interest of the counter-petitioners was under consideration, it surely was worth while to consider that of the petitioners; many books which they had purchased of authors had not paid in the time limited by the 8th of queen Anne. The principle of the Bill was a compassionate one; it relieved those who merited relief; and, therefore, he hoped it would pass into a law.

Colonel *Onslow* confined himself to answering sir John Dalrymple's arguments, against the force of which he said he would pit the baronet's opinion before the late decision, when he sold his own memoirs for 2,000*l.* yet, lawyer-like, he pleaded against his own opinion. What he had urged at the bar respecting the Greeks and Romans writing only for fame, he said was very true, but it was also true that the lawyers of that day were wont to plead without fees. Lawyers of this day took a middle path, they were glad to have some money as well as some fame; without pay soldiers would not fight, and without it the clergy had not spunk enough to pray. As to the talk of its being a national question, it might be urged against the advocate's pleading in favour of Scotland, that Scotland had two rebellions, but he would not offer so unmanly an observation. He had letters from Hume, Beattie, Robertson, &c. in favour of the Bill. The abuse of the newspapers, and the assertion that the petitioners reviled the members, was an insult to the understandings of the House to suppose they would on so partial a ground deny justice to the injured. The colonel warmly took the side of the petitioners, and said the House sat for other purposes than taxing the subjects; their most glorious prerogative was that of affording relief to the distressed.

Sir *R. Sutton* really wished those of the petitioners, who were injured, might be relieved: but he could not but object to the present Bill, as it tended to establish a monopoly, and materially injure the property of the counter-petitioners.

Mr. *Feilde* rose to explain. He said it was only now prayed, that having acquired a large estate, they would grant a short lease of a small part of it. The matter obtained was the acquisition of the public, not particularly of the counter-petitioners; the latter, therefore, would not be injured by the legislature's granting the relief

prayed, nor was such a matter without a precedent. The widow Hogarth had, in the 8th of the present King, been favoured with a relief of a similar kind. Mr. Feilde painted the distress of the petitioners in a very forcible light, and shewed that the Bill prayed for was not at all injurious to Mr. Donaldson or the London stallmen.

Lord *Beauchamp* spoke against the booksellers, and entered minutely into the whole of the business. He stated a considerable number of objections why the Bill should be thrown out, and concluded with saying that as he found the Bill was meant to persecute one party, and benefit another, he should give his hearty negative to it.

Mr. *Jolliffe* rose next, and in a dry manner recapitulated some of the arguments urged against the Bill by Mr. Fox and lord *Beauchamp*. He paid the former a great compliment on his abilities, and joined with him in objecting to the Bill, declaring, he thought the public would be benefited, if books were printed on paper as ordinary as that of a news-paper, and on types as wretched as those with which halfpenny ballads were printed.

The House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. George Onslow -	} 57
	{ Mr. William Burke -	
NOES	{ Mr. Charles James Fox	} 26
	{ Mr. Dempster - - -	

So it was resolved in the affirmative.

May 26. The order of the day, for the third reading of the Bill, being called for,

Mr. *Charles Fox* rose, and exclaimed vehemently against it: he said, he had already troubled the House very much upon the subject, but he could not let so infamous, so pernicious, so flagrant a Bill, pass through any stage without opposing it; that it was entirely meant to compensate a set of men, who had been guilty of error through wilful ignorance, for they never had applied to counsel to know if they really had a claim to copy-right, well knowing that if they had, counsel would have told them they had not; that in this situation the petition for the Bill stood: the compensation was likewise to be paid by Mr. Donaldson, and other booksellers, who really were in the right. He was astonished how any person could have the assurance, supposing the Bill should pass

that House, to carry it to the Lords, for it was as downright and barefaced a robbery as ever was committed: he said, that he and others of the same way of thinking had been accused of making glorious manœuvres against the Bill; that the friends to the Bill had likewise been cautious, for they knew that so infamous a Bill would not bear consideration, and therefore had hurried it on through every stage in a shameful manner, never wishing to have more than forty members, well knowing that one man of a thinking and unprejudiced opinion would be apt to throw out such lights as would entirely damn the cause; they had therefore generally conducted their business with a thin House, but unluckily for them they had made their House once too thin, for they had not members sufficient to constitute a House: he rallied them much on their bad generalship, and said he should give his hearty negative to the Bill.

Mr. Stephen Fox spoke greatly against the Bill. The question was then put, that the Bill be read a third time; when the House divided. The Noes went forth.

Tellers.

YEAS	{ Mr. Feilde - - - -	} 40
	{ Mr. Wilbraham Bootle	
NOES	{ Mr. Charles James Fox	} 22
	{ Lord Beauchamp - -	

So it was resolved in the affirmative; and the Bill was accordingly read the third time.

Proceedings in the Commons on the State of the Linen Trade.] March 10. In a Committee on the State of the Linen Trade, Mr. Clements was examined, and confirmed the evidence given last year before the Committee, relative to the decline of the linen trade at Darlington, and its neighbourhood. He added some further circumstances relative to its still more rapid decline since that period.

Governor *Pownall* begged leave to lay before the Committee some important information he had received from Ireland; he said, it was the report of a committee of the House of Commons of Ireland, setting forth the claims that country had upon this to give it every possible encouragement in the improvement of the linen manufacture, exclusive of all others; and another report from the Linen-board, shewing the present state of it, the causes of its decay, and the probable means of retrieving it. He then produced a letter

from sir Lucius O'Brien, chairman of the Committee, in answer to one he had written to him on the subject, which accompanied the two reports. The first contained an historical account of the steps taken immediately subsequent to the Revolution, to render the linen manufacture the staple of Ireland, as the woollen was of England; the ideas that had prevailed on both sides of the water to effect it; the line then drawn to prevent the interference in future between the two; the several Acts of parliament made in both kingdoms in confirmation of this convention; and lastly, the period which first introduced a jealousy, which broke that mutual confidence subsisting between both kingdoms, in breach of the compact so religiously observed for the first three reigns succeeding the Revolution. The report from the Linen-board confirmed the parole evidence given at the bar, relative to the state of the trade, the number of unemployed looms, the ruin of the manufactures, the decrease in the exports, &c. Besides these, there were a variety of other motives assigned, such as a want of the natural growth of flax and flax seed, stagnation of credit, money spent by absentees, rise of rents, restriction, and discouragements by the British parliament. The remedies proposed were encouragements for the raising and cultivation of flax, collecting the duties on foreign linens in the spirit in which they were held as to the real value of the goods, construing some of the acts of the British parliament in a liberal manner, with almost an infinity of regulations, conformably to the idea which prevailed at the time, Ireland relinquished all claim to the export woollen trade in favour of England.

April 20. The order of the day was read for the House to go into a committee to enquire into the State of the Linen manufacture of Great Britain and Ireland. Mr. Glover was then called to the bar, who informed the committee, that he had another witness to examine, a Mr. Rush; his evidence chiefly consisted in a geographical description of Germany, of the different parts of it from which we had our foreign linens, of the nature of our export trade thither, our communication with them from the out-ports by the several great navigable rivers in that country, and the several commodities of native produce and import exported to that country. As soon as his testimony was finished,

Mr. Glover entered into a recapitulation of the whole evidence on the part of the Hamburgh merchants, and accompanied it with such observations as suggested themselves to him on this occasion. His speech was as follows:

When I first had the honor of admission at this bar, I prefaced the examination under my particular care with an assertion, that no question of higher national import could come before you; that the very basis of this kingdom's stability and power was concerned in your investigation, and the future decision of parliament upon your report. It rests upon me to make the assertion good. With all due attention to the evidence I have examined, I shall take my principal stand upon the report of last year, made public by the authority of this House. I shall not to my knowledge quote any controvertible fact; deductions and conclusions rank under another predicament. The report sets forth a decline in the British and Irish manufacture of linen, and the numerous emigrations of your people; facts which I admit: but that they are imputable to an increased import of foreign linens, or to any other abuse in those imports, is a conclusion I totally dispute. Having therefore admitted the evil, and rejected the cause assigned, I feel it incumbent upon me to search for the real one, upon whose discovery the main of this question in the first instance absolutely depends. Briefly, Sir, the method I shall pursue is to shew, what has been the genuine cause of the evil, what has not, and what is not the remedy. I will then disclose the nature, depth, and extent of the malady, not hitherto fully represented to you; the quarter where it still continues consuming the vital there, and threatening more mischief to the whole; and I will conclude with suggesting, under your permission, the only radical cure.

The cause, Sir, unparalleled since the first intercourse between nation and nation, of a calamity so severely felt by three kingdoms, and the quarter whence it took its rise, and made its progress over all, will require a narrative, founded on that material part of Mr. Payne's evidence relative to the general stagnation of credit; a narrative necessary for your information, concise I could wish, accurate I trust, undeniably true I know; and such, that if the manner could equal the matter, would lift your attention to astonishment. In all commercial nations, whenever moderation

and frugality have yielded to extravagance and ambition, wants have been created, which common profits could not supply; those wants have been the parents of projects, and a rash aspiring spirit of enterprise has overborne the sober temper of regular trade. This restless and intemperate spirit has been predominant among one people, distinguished by a series and variety of recent projects, concerted without knowledge, without forecast, without system, executed by rashness, terminating in ruin, almost total to themselves, and detriment almost general among their suffering neighbours. It is from this quarter we have seen stupendous undertakings in buildings, in the cultivation of remote islands, in manufactures, upon no other certainty than an enormous and insupportable expence. It is from this quarter we have seen projects of avarice, of rapacity, productive of misery and depopulation under the mistaken name of improvements. It is from this quarter, that the great markets of trade have been glutted by wild commercial adventures under the delusion of a temporary but false capital; but above all, the banking adventure is filled most with the marvellous. That part I shall not detail merely to avoid an imputation readily thrown upon me, an imputation of amusing the committee with poetic fiction; but thus much I must say, in one period, that if a certain celebrated Spanish author could revive to exhibit his hero under the new character of a banker, he might spare his invention every kind of labour, as recent and indubitable facts in our own island could furnish incidents, every one at least upon a par with his windmills; yet, Sir, could that most sagacious person travel over that land of projects, and converse with its inhabitants, he would find amongst them, erudition and science, jurisprudence, theology, history, oratory—in short, Sir, every sense, but that common sort, upon which all worldly welfare, both public and private, depends; by a just application of the elements of trade, manufactures, money, and credit to rational and practical improvements, a system yet to be learned by that scientific, lettered and eloquent nation. Sir, I will now essay to excite your astonishment; these numerous undertakings, I think justly termed stupendous, were attempted nearly at once in the same period, were carried on at an expence of sums incredible, and yet the projectors had no capital of their own. They had, I presume, a

second sight of immense acquisitions, and one would think pursued their plan by some supernatural aid. Sir, what they did will not be credible to posterity; the universe never furnished a people that ever made such a gigantic attempt at the attribute of omnipotence in creation; absolutely they created millions of money out of nothing; by a certain alchymy which they possessed, they extracted millions of hard money out of the pliant purse of their neighbours, and at the same time ruined themselves. This operation, Sir, is called paper circulation.

My honourable hearers are above the want or use of such an operation; to suppose them, therefore, unacquainted with it, I mean a compliment to them, and an apology for myself, in giving some brief explanation of it.

A knot of projectors at one end of the island send up immeasurable quantities of this enchanted paper to their brethren, their countrymen, projectors like themselves, settled at the other end. These, Sir, by their magical tip of the pen, called acceptance and indorsement, instantly converted this paper into money to any amount by what is called discount; the first produce was instantly absorbed by the projects in hand, a second must be provided equal to the first, to discharge the first set of men when due; else the spell would be immediately broken. A second set was sent up and converted into money the same way, and applied to discharge the first. A third the second, a fourth the third, and so on.

Children in sport can make a circulation upon water by the cast of a stone, and by that repetition can keep it up for a while, but the child knows he cannot make it everlasting. This was not known to the man of the north, whose infatuation adopted the chimera of the South Sea year, that credit was infinite. For example; Sir, one society only, in the midst of all this desolation which remains to be described, had drained a certain capital of 600,000*l.* in hard money, in exchange for a nominal value in paper; it cost them about 9 per cent. to raise that sum in order to be lent out at 5; and there were among their managers, who looked upon this, Sir, as profit (nobody will dispute what I say upon this head), and that the more this paper was extended the better; a bubble scarce to be matched in the 1720 of one country, and in despite of all experience then, or since, reserved to dis-

tinguish the other in 1772. In short, Sir, such was the inexplicable coincidence of circumstances, that what with the perseverance of one kingdom, in borrowing, and what with the torpid facility of the other, in lending, a chain of circulation was established, which comprehended both the capitals, and most of the intermediate places; a chain growing in size weekly and daily, enduring for the whole years 1770 and 1771, down to June 1772, when one link gave way—the charm was instantly dissolved, leaving behind it consternation in the place of confidence, and imaginary affluence changed to real want and distress; a torrent of ruin from the north forced a passage into your capital, into the most secret depositories of treasure; a run was felt by your bankers, successive falls of houses, in trade, eminent at least for the wildness and immensity of their transactions, became the daily, the hourly news; an universal diffidence ensued; credit seemed withering in the root; a general stagnation prevailed in every branch of trade and manufacture; the commercial genius of your island languished in every part. For a single manufacture in that part, whence the evil took its rise, to have escaped, would have been a wonder bordering upon prodigy; none to have shared the common lot of all from a grievous and popular distemper, arising from that quarter the most restless of all, when its unsatisfied and intemperate ambition gave wing to that black swarm of projects, which at once overspread three kingdoms, like one of the ten plagues. Sir, I have pointed out a fact of public notoriety; the quarter whence the evil came; but as a further confirmation, among the millions stagnated, or lost, in consequence of failures in that fatal period, four-fifths in value are directly chargeable upon the natives of that quarter; and of the remaining fifth, the greatest part fell among those unfortunate men of this kingdom, who had connections with the other.

Sir, there is no exaggeration in this description. I should have reason to boast of my own powers, could I give a perfect picture of the distress of that time; might I refer to the testimony of one, who, by his situation that year, must have been better informed than any other person, he best knew the terror which oppressed all men, when he produced the palladium of public credit, deposited by the state, in the custody of that most illustrious corporation, the bank of England; he there dis-

tinguished himself. I hope no man ever will have occasion to do more. It was he, he and his brethren, though they could not prevent the mischief already done, used their utmost endeavours, looking still to that country whence the evil took its rise. I was myself a subaltern upon the occasion, using my feeble endeavours to rescue that country from its own suicide hand. Sir, he confessedly, at that time, saved the principal commercial town of that country; that eye of Scotland, by straining at a view too extensive, had been extinguished without the assistance of that witness, who, when first introduced at your bar, appeared so hurt, as a gentleman and as a merchant, at certain insinuations thrown out upon the whole trade. Sir, neither Mr. Payne, nor myself, the second ostensible person upon this occasion, could look upon ourselves but as above any such imputation; but it is not in our power to shut the mouth of national prejudice; there may be thousands, whom we cannot controul, who may charge these, and many more aspersions thrown out during this proceeding, with the imputation of containing in them an illiberal and ferocious tincture, verging on barbarism. I have now undeniably ascertained the genuine cause of the calamity, which is known to be general, and the quarter whence it solely took its rise.

Next, Sir, there is another calamity, which is, I cannot help saying, undauntedly ascribed to the increased import foreign-linen, the emigration from one kingdom at least, consisting of husbandmen and peasants, men altogether unconnected with manufactures. Sir, I hope I have not tired you with narrative. I am very unfortunate if I do; for above half my discourse will be historical. I must give you a short narrative now by way of interrogation. I ask, Whether not more than twenty husbandmen of some property in one of the western islands, in the northernmost part of this country, did not make the first emigration to avoid an increase of rents, which appeared to them exorbitant, and drew them after many hundreds of inferior persons, never to return more? Did not some hundreds, in another of the western islands, fly from the oppression of factors and doers, that is, agents and stewards, of a much injured and noble proprietor, himself excelling in merit and accomplishments? Did not some hundreds in Sutherland fly from a new oppression under an Hebrew tribe, called tackmen, lessees, as

is the case in Ireland, who find a profit in grinding the hard-labouring man? They, Sir, had the audacity to revive personal service, in imitation of the Corvees in France, where days work are exacted from the vassal to the lord. Sir, I had all this in the country itself. I will ask them, whether a farmer, by the name of James Hogg, of Borlum, near Thursoe, in Caithness, did not last November embark with two hundred more, and winter in the Orkneys, remaining there for a fresh ship from Leith to prosecute their voyage to North Carolina, never to revisit their old habitations, though separated from them at no greater distance than Pentland Firth. After this, a phrensy of emigration became epidemical in Inverness and Murrayshire; many embarked for America, who had no cause of complaint against their superiors. As I was told, they went upon a principle of pride to North America, expecting to become lairds themselves in that supposed paradise. I almost repeat the words I heard at Edinburgh, and several other places. Sir, the same phrensy penetrated to Ross-shire, upon a vast tract of land possessed by a gentleman, illustrious for his gallant and meritorious services in the military line, not less meritorious now in his retirement, devoted to civilize and cultivate his country; his discretion, equal to his humanity, by condescending to reason with his inferiors in their own mode, reconciled them to the comfortable situation of tenants under him; but if his example is not followed, emigration will take place, and augment year after year; and, I hope, without offence, I may recommend the same example to Ireland. Sir, I will likewise recommend my honourable hearers to an Highland discourse upon this subject, transmitted to me from Scotland, which more forcibly and more pathetically ascribes this emigration to the same causes I do, superadding one of his own infinitely beyond my reach, that this spirit is infused by divine vengeance, to chastise avarice and cruelty. And thus, Sir, I have endeavoured to shew what has been the cause of this evil.

But now, Sir, the authors of all these evils, with no other sensation than of their local distress, concealing, that their wounds were given by their own suicide hands, without compunction for the misery brought on two sister kingdoms by so many unwarrantable and pernicious projects, have taken the field a second time

upon a new adventure, which I will prove hurtful to themselves and the public; but let them not think, that their march has been in disguise, by placing an English manufacture in their van. Sir, I honour the individual industry of that manufacture, as much as in the greatest; but I am satisfied no English gentleman can be displeased, when I tell him, that the utmost annual value of that manufacture, to the highest amount of their own stating in the printed report, is not a five hundredth part of the woollen; nor can they conceal under the name of another kingdom, quiet and contented in itself from the encouragement already received, no ways addicted to projects, knowing, experienced, and regular in their trade. I say, that under that name, they must not think to conceal that impetuosity, which has brought them forward again, and has fixed them upon a ground of allegation and calculation diametrically repugnant to the truth of figures. I believe I must now trouble you with a little calculation.

Mr. Payne, Sir, delivered to the committee most accurate calculations of foreign imports at several periods—a paper in the printed report, will sufficiently shew the fluctuation of trade. I, when asked as a Hamburgh merchant, what the quantity of yards might be at a medium, have always answered, that for many years they have amounted to 25 millions of yards a year, not meaning that every year was alike: and one, who judges of trade by the highest year, and another by the lowest, would be both equally mistaken, and ever remain in the dark. Accidents, common or uncommon, occasion these variations. This paper, a paper of their own, Sir (I hope I shall not be guilty of any thing clandestine, in making use of any thing from their own papers against them), this paper exhibits the imports for 20 years, from Christmas 1751 to Christmas 1771; to form a comparative judgment of trade, you should always take large periods. In the first 10 years the imports amounted to 300 millions of yards, or thirty millions at an annual medium. The last period of ten years amounted to 250 millions of yards, 25 millions at an annual medium. Now, Sir, it seems to me, that this is a decrease of 5 millions of yards; and that 25 is less than 30, by five. They call this an increase; it is not the first time they and I have differed about the meaning of words. The quantity of Irish linen in the first pe-

riod, is 130 millions of yards; in the last period, 180 millions. This I call an increase in the last period of 50 millions, or 5 millions a year. The quantity of Scotch linen stamped for sale in the first period, is 99 millions of yards; in the last, 127 millions. An increase of 28 millions, or 2,800,000*l.* a year. I, Sir, who have been intimately conversant with a certain new race of calculators upon a former occasion, do suspect, that upon the present occasion they have lent some of their skill to the Irish; nor am I in the least surprised at my differing with them in the meaning of decrease and increase: we never could agree upon the sense of the words profit and loss: for, Sir, no warning, no advice, no argument could persuade these calculators, that lending out at five per cent. money which stood them in nine, was an operation directly the reverse of profit; nor till they were wholly undone did they discover, and then by the perception of feeling only, that five was less than nine.

Gentlemen will observe, that this calculation in their paper goes no farther than Christmas 1771. The two subsequent years, 1772 and 1773, will afford some peculiar observations, which I hope may throw some commercial lights into the committee; lights, I hope, intelligible without commercial practice. Will gentlemen please to look over the paper, they will find in the years 1770 and 1771, the increase of linen imported was very considerable; so they will find the case of linen and all other articles, either home-made or imported, that could supply the North American markets. The expectation of an immense export to that country, upon their cancelling their non-importation contract, naturally produced this increase of stock in all kinds of goods, foreign or home made, for that market. Unfortunately, Sir, at this very crisis, the pernicious paper circulation was in full action, and by the creation of false capitals, encouraged so many adventurers to engage in this export, that the American markets became overstocked; and what was in itself an advantage became a disaster. Thus, Sir, I do not allow, that even the over-stocking the American markets was a cause, even in concurrence, of the calamities I began with describing; it was itself an effect of the original, primary cause, the paper circulation: but the disaster was not known in time to prevent more mischief in 1772; for, Sir, the

Irish, in that fatal year, furnished a very full quantity, 20 millions and a half of yards, the Scotch above 13 millions, a trifle less than in 1771; the foreign merchants 27 millions, about a million less than the year before; a quantity, upon the whole, too large for any usual demand. In this state intelligence was received, that goods sold to loss in North America. Upon this, Sir, the grand northern apparatus of the philosopher's stone was upset: and all that stagnation, all these evils ensued: the merchant and manufacturer were found loaded with goods, which they could not sell. This, Sir, is a natural effect of the original cause. Then, Sir, a monitor more powerful than King, Lords, and Commons, or all the powers upon earth, the irresistible monitor, necessity, took place of prudence. What was the consequence in 1773? The Irish in 1773 reduced their quantity only about two millions of yards, one-tenth part: the Scotch, *pro hac vice*, wiser than the Irish, reduced theirs from 13 millions to 10,700,000 yards. The merchant, rather more enlightened, and endued with more forecast than the manufacturer, reduced his from 27 millions to 17 and a half, the lowest import that ever was known: and in that very year, the authors of all the mischief accused the merchants of having brought over such a quantity of linen as occasioned all their distress. This is the state of the case. Thus, Sir, I have shewn what was the real cause of the evil in the first instance, and in this last what was not, if there is any truth in figures. Here I must observe, low as the import of foreign linen was in the year 1773, when it was accused of an increase, it will still be lower this year. I do not speak merely from the opinion either of Mr. Milloway or my own, or the Hamburgh merchants put together; I have really enquired, and find by the ship-brokers, that the Hamburgh merchants this spring have brought one-third less than they brought at this time last year; a fortunate event to one kingdom, an innocent partaker of the mischiefs resulting from the projects of the other; fortunate too for that last, if at length, warned by their own self-created sufferings, they will learn to controul that inordinate and intemperate ambition, which, despising advantages slow but sure, and forcing births premature, hath produced so many ruinous abortions. They are most of them scholars; they will find

that sentiment better expressed in the original, the wisest of Roman historians, under the head of Brutidius Niger, in these words describing men, 'Qui, spretis, quæ tarda cum securitate, præmatura vel cum exitio properant.' (Tacit. Ann. 3, c. 66.) I would likewise recommend the whole passage to their serious attention, as a preparation for their only remedy, far different from any they have yet suggested for themselves. This brings me to that part, where I am to consider, what are not the remedies. And here, Sir, I take the most open ground of an advocate, the friendliest of advocates of our home manufacture of linen, in particular the Scotch; as a partiality is due to a country the deepest in distress: but, Sir, severe sincerity is a part of friendship; nay force, to hold back the hand of error from distempered lips, eager to swallow poison for a medicine. I think, Sir, now, whatever may have been the projects at first intended, or now meditated, or even wished for on this subject; I say, after having studied it for 40 years, and courting such an occasion as this, I am determined, if you will condescend to hear me, that the whole and every part of this important question shall be sifted to the bottom once for all. Sir, the first idea, but I call it project—I will prove all to be project—the first project is an imposition (we talk from public notoriety, not from matter of supposition) of 10 per cent. upon all foreign linen imported. I aver, that upon the ten species of narrow German linen, the duty for many years past is about 27 per cent. upon the prime cost, computed to the time the goods are put on board the ships for London; but minute calculators may add forty shillings more for the freight and insurance to London, which will make 27 upon 102. As for my own imports, I solemnly declare, upon the nicest calculation for years back, I pay more than 30 per cent. I pay 30 per cent. but there is a reason; I deal more in the lower sort. I stated about 27 as the medium price upon all German linen imported. I have proved by that most candid and weighty witness Mr. Pearson, that under the old duties, foreign linen, and some of the bulkiest, are run into several parts of England. When I mention my own imports paying 30 per cent. these new calculators tell me I pay but 15, according to their mode of computing duties in their country. If they were to tell me they did not pay a shilling, I would not

dispute their veracity. I beg they would not dispute mine. I did allude to an aspersion thrown out (I, it is true, have proved a clandestine import into England), but as to the aspersions which have been thrown out, that even the merchants themselves are guilty of abuses in the entries, I shall only remind the calculators for the present of an old Spanish proverb—He whose house is made of glass, should not be the first to throw stones. I have described a certain national propensity in one region to projects; there is another propensity, which the very sight, air, and smell of the sea stimulates immediately to action. Sir, that propensity is so strong and so prevalent, that the greatest public undertaking there was abused to the encouragement of that propensity, under the specious title of promoting agriculture, trade, and manufactures. The first and noblest in dignity and fortune, distinguished more for their honor and probity than for their rank and titles, were deluded and deceived. And numbers of men have felt to their cost, that that society, the greatest that ever was formed without a charter, which at one time could issue 800,000*l.* in paper, and drain the city of London of 600,000*l.* in hard money, was originally, who can dispute it, the device of smugglers? and by their influence in the direction, capitals were furnished to noted smuggling societies to the amount of 28,000*l.* in one instance, the most notorious of all. I do not mention this by way of retaliation, but I mention it as argument. This inference may be drawn from the practice of both kingdoms, that at any time, from any quarter, where this propensity prevails the most, any proposition for an increase of duty, already heavy, should be received by the legislature with a jealous ear. Here I step forth again in behalf of the honest Scotch manufacturer. He, Sir, not speculating beyond his loom, taking all for encouragement which comes from parliament, particularly this addition of 10 per cent. upon 27, will double his industry, will over-stock himself, and find himself, after all his labour, supplanted by the smuggler. I do not deal in assertion: I rest upon a fact proved at your bar. When the cambrics were put under a prohibition, two manufactures were soon established; one in the South, which lost all their capital, I fancy more; the other in the North; they, Sir, were great sufferers, because the smugglers supplied all the markets in England.

The next project is to retain the new

duty upon export to the colonies. Two consequences may be clearly foreseen; the poor industrious Scotchman will exert himself again under the double delusion of a supposed encouragement, and, at first, the sudden vent of his goods; for I know, Sir, that in case it were possible this could pass, there are adventurers in that country who would immediately have another second sight of great acquisitions from the American markets; would ship large cargoes of linen, taken up upon credit; they would get thither, and find the market possessed by the clandestine import of foreign linen. Sir, I repeat again, it is forty years I have been seriously considering the merits of this affair, and frequently in conjunction with my brethren, have opposed, particularly, the disallowance of drawback upon exportation. The whole body of plantation merchants always joined in the opposition, upon a fact, from time immemorial, that foreign linens were run into those parts. It is true, Sir, that there have been well disposed colonists, who used considerable quantities of linen through the channel of the mother country, though they could have had them 20 per cent. at least cheaper directly from the foreigner; and now, Sir, when there is scarce a well-disposed colonist left, when they have been exerting the most contumacious and ferocious disobedience on account of one tax, it is suggested to impose another; as if linen could not be run into America with the same facility as tea, or as a pipe of wine into Great Britain. By this means you are really raising an encouragement to their smugglers from 20 to 30 per cent.; 20 per cent. it costs already to go through the mother country to America; and on the head of emigration, admitting all her weavers, you would be virtually giving a bounty to the diligence and skill of those new settlers, to rival you there in the linen manufacture of this country. In the mean time what becomes of your adventurer? His goods will remain unsold; I mean the adventurer who sent out Scotch linen upon credit: no return will come home; he will become insolvent, and the poor injured, deluded manufacturer, may make fresh application to you, to you for ever molested with applications, to achieve impossibilities: as if an act of parliament could regulate the conduct of a projector, in despite of his folly, or allot to every acre of land a specific produce, in defiance of the season. But the other ill consequence of

a more formidable nature, my honourable hearers may find in the printed report, the gradual increase of the linens exported from the Scotch and Irish manufactures to North America, under the head of what bounties have been received; add to this the linens which are exported without bounty. I will venture to call the whole together at above 400,000*l.* a year, of which the better half falls to the share of Scotland. I am almost disposed to quote Tacitus again. Would these people leave such a value at the mercy of American smugglers? If they do, I believe it will be lost; and then I do not want to be assured, that nothing more is wanting to complete the misery and desolation of their country; and thus by the imposition of new duties at home, and the retention of them, upon exportation, parliament will run the risk of strangling the manufacture, the smuggler of America holding one end of the cord, and the smuggler of Great Britain the other.

I am now come to that part of the subject, which, with submission, I believe you will deem of most consequence. I address you in your mixed capacity of senators and statesmen. I name the Revolution! an æra, which all must hear with reverence; an æra, which not only established your civil and religious rights at home, but provided for them an impregnable bulwark against foreign attacks, by establishing your system of foreign trade. Throw back your reflection upon the glorious annals of your country; from your deliverer's first war with France down to the last. What fortunate means have enabled this island to endure a drain of more than one hundred millions during a period of about 70 years? The supreme Guardian of all, among the multitude of his blessings on this island, has rendered its soil unfruitful in precious metals; he hath given you materials to exercise the faculties imparted to your people, endurance of labour, industry, and skill. Parliament, as far as human perfection can extend, have adopted and pursued this great and original plan. By their prudent interposition, new materials have been borrowed from foreigners, diversity of new produce, raised in distant settlements, for the further exertion of your national activity, invention and toil; which applied by the merchant, have formed that vast and multifarious machine, that sublime system of foreign trade, whence your arts and industry have derived such an influx

of wealth as hath supported a succession of expensive wars, unmatched in history, and leaves you still in rank among the first nations. Would the finger of policy touch the smallest part of such a system but with a trembling delicacy? Yet now the boisterous hand of project is stretched forth to shatter the whole frame.

Sir, I must now trouble you with a little more calculation. Upon this head, I must begin by removing some small obstructions thrown in my way. You have a paper, Sir, I think, in the report which states the exports to Germany and the exports to Ireland; I may add, that the exports to Scotland, the export from the city of London to every sea port, market town, and village in England, would have made the value a great deal higher, and would have furnished matter for my new calculators to exercise their faculties upon. Are not the English, Scotch, and Irish, all fellow subjects under the same head; and were they altogether unconnected with the rest of the globe, would there not be a great traffic carried on amongst themselves, and the community not one shilling richer or poorer? I wish the other two kingdoms took less from England, and spent less in it, upon the principles that no great members can decay without prejudice to the whole, as England has found to her cost. Traffic, therefore, between subject and subject cannot be productive of any national wealth. Sir, there can be no proposition more self-evident, than that so far as every part of a great community throws produce and manufactures into the foreigner's markets, so far as he takes from you more than you take from him, in that proportion and by these means only, can you receive wealth. It is by these means you have increased to such a degree as to render you secure at home, and formidable to your enemies. Sir, it is certain, that you must supply your wants from other places, not merely, Sir, for your manufactures: there is a material you want for your preservation and your very being, or you would not have a ship of war, or a merchantman. First let us change the laws of nature, and then tell foreign nations you will raise every article within yourselves for your own use, and they shall take every article from us for their use.

Sir, I have shewn that by retaining drawbacks you hazard a loss of 400,000*l.* a year in linen vended to America. Suppose, Sir, that by the imposition of new du-

ties at home you should succeed; that you should at once annihilate the use and consumption of all German and Dutch linens, and, by a miracle, your home manufacture should instantly supply the consumers' wants in cheapness, quantity, and quality; what will be your object? You have a paper upon your table which gives you the medium value for ten years of Dutch and German linen imported, about 470,000*l.* I cannot allow all that as gain; I must deduct 170,000*l.* for the foreign yarn which is notoriously used in the British fabric, for which I refer gentlemen to the paper which shews the great increase of foreign yarn imported; therefore all the possible object of advantage may be set at 300,000*l.* upon an hypothesis in itself impossible. Now let us consider, on the other hand, what you put in hazard. Mr. Payne has given you a state of your exports in two periods of five years each; in one, from 1762 to 1766, the annual medium is about 4,000,000*l.*; in the second period, from 1767 to 1771, the annual medium is reduced to 3,000,000*l.* It is still an immense object. I must now remove another objection; I may be told the Custom-house state of these exports is vague; granted, Sir; I will allow 500,000*l.* for errors; this leaves a remainder of two millions and a half; still an immense object. But, Sir, I certainly of all men must grant, that these Custom-house accounts are vague. When I had the honour of a seat within the bar, I was the first, for many years, who called for those accounts. I had many conferences with the officers. I know their mode is vague. I know they go upon the same plan as since the first institution of the inspector's office by the advice of Dr. Davenant. What is the inference? To carry their point, your new calculators, never looking upon both sides of a question, say, the inspector has over-valued your exports. When I reply, they are under-valued, I do not mean to set one assertion against the other. I will support mine, at least by probable conjecture. It takes the reduced state of the exports at 3,000,000*l.* I deduct 1,100,000*l.* the total import from Germany and Holland, there remains a balance of 1,900,000*l.* If there is no more, we are in a deplorable state. Now I beg you will honour me with some attention. I believe, Sir, every one of my honourable hearers will allow, if we owe any debts to Holland and Germany, on any other account, part of our balance in trade will be applied to dis-

charge that debt. I don't know whether any gentleman remembers, that I did state it in 1763, when within the bar. Sir, you pay to those countries, particularly Holland, to a day, about 900,000*l.* for the dividend on their share in your funds; that must be paid by part of the balance they owe to you on trade. Another thing will be allowed to be very obvious too; if we owe a balance of trade to those countries which border upon Holland and Germany, where this balance is due to us, it will naturally center in Hamburgh, but in Amsterdam chiefly, whence by negociation of exchange it will be applied to discharge that balance. I do not pretend to be accurate, '*Valeat quantum valere potest.*' We certainly do pay to Sweden, Norway, Russia, and the east country, above a million a year for materials, without which you could not subsist. There are other incidents, many things I have not mentioned. I have taken up too much of your time already. I have a great deal more to say. Now, Sir, I will give another conjecture. In 1771, the export of British produce and manufactures together to Germany, is set down at 386,000*l.* and for the five years of that last period, at a medium, the whole value of British produce and manufactures comes to about half a million a year. I have a paper, I believe, more accurate: it is a paper authentic, and being right in one article out of four, gives credit to the other three. It gives a state of the export of Saxon linen to England, and of three only of our manufactures into that country. They give you the value of their linen at 166,000*l.* which we will admit to be a very just valuation. Sir, the value of our hardware, furriery, and woollen goods, is 340,000*l.* Gentlemen, remember Mr. Rasch's evidence. If Saxony, in three articles only, takes off 340,000*l.* and under this head produce is not to be reckoned, I submit whether 160,000*l.* a year is not too little for the supply direct of all Germany besides. The Custom-house accounts put them in only at half a million. I think it impossible but that they do under-value the manufactures of this country; I could say, our own manufacturers and exporters are of the same opinion: however, I will take no advantage of these conjectures; I will revert to the reduced state of the exports at 3,000,000*l.*; only observing that four-fifths of those to Holland go from thence to Germany. Now, Sir, shall that be exposed to any degree of resentment from

foreign princes?—for what? For procuring an opportunity for your manufacturers to try an experiment, which may not succeed perhaps in half a century, and certainly hath hitherto made so little progress in the linens consumed by our poor against the German under the present duty of 27 per cent. To gain what? Why no more than 300,000*l.* a year. In the mean time all the poor of England, the labourer, mechanic, and manufacturer, must be taxed 10 per cent. for all they use; they cannot bear that tax; they must be paid more for their labour, and the tax must be diffused all over England. Hence you are exposing your own manufactures to gain yearly 300,000*l.* only; whilst in the mean time you tax the country in this cruel manner. I always make a reserve; the smuggler is always very ready to give relief; he may relieve. Now, Sir, having considered the projects of the upper class, I will descend to those of the lowest, which I must beg leave to call the sediment of the crucible. I do flatter myself the great apparatus will be overset; there may be some hopes the rates of Silesia linens may be raised, being that sort which certainly exceeds 8*d.* an ell; there may be some expectation that at least we may raise the rate upon that, notwithstanding the rate now at a medium of all the narrow German linen is as much as can be, being rather more than prime cost. Upon this head I shall be very short; you have heard Mr. Rasch. I beg leave to recommend every one of my hon. hearers to look over any common map of Germany, and if he can find any one potentate who commands the channels of communication in Germany, through which three or four millions a year must go; if he can find who is master of the Vistula; who is master of the Oder, by Stetin; who is master of the Elbe, where Hamburgh lies; and through whose dominions that river runs; who is master of the Weser by Minden, where Bremen stands; who is master of the Embs by Embden, and of the Rhine by Wesel; you will find that your whole export which goes through Germany (the greatest part I allow for the consumption there), but which actually reaches Poland, Alsace, and Lorraine, &c. (there is likewise a very great value goes to France through Germany) I say, you will expose all this to the mercy of that potentate who commands the whole, and who would be less offended at your laying a general imposition upon all linens, than setting a

stigma upon his in particular. It is so evident in point of policy, I will not trouble the Committee with any thing more upon that head. However, Sir, there is another very minute project indeed, and of all others the most inconsistent with English generosity and justice, the putting the Silesia damasks and tabling upon the footing of the Holland bleach, which, as has been proved to you, will amount to a prohibition. It has been proved to you, that these linens are made in Saxony, a friendly power. The state of your trade in his country I have already produced: your goods pay but a transit of about 2 per cent. add to this the excise paid by his subjects for those consumed at home; they amount together but to a trifle more than half of what his linens pay here. What we pay him for these articles does not exceed 20,000*l.* a year. Is it possible a British parliament can treat a friend so? I must now make use of my main argument. I am serious, when I talk in the manner I am going to do. I am a friend of the Scotch manufacturer. I have in my eye again that deluded man, who would go to work to make damasks and diapers; he will find himself supplanted by the smugglers again. I say every lady has as good a right to cover her table with smuggled damasks, as her husband has to set on his smuggled wine. Will the opulent be restrained in their luxury? I have drank smuggled wine at the table of a first commissioner of the Treasury: I have told him so; had not his wife a right to cover it with smuggled damask? Why, Sir, if every master of a family were as rigid as Cato the censor, he could only answer for himself; he could not restrain the female part of his family in their dear delight of purchasing penny-worths from smugglers. Sir, the last remains of our broken crucible is the disallowance of the drawbacks upon foreign linen printed here. I believe the evidence of Mr. Walker cannot be well forgot. The export is very considerable; his alone 50,000*l.* a year: the value of the labour, industry, and skill, exceeds the value of the material. We gave no offence to Germany by this; she will thank us for it, being an encouragement from her numerous manufactures in printed linen, to expel you from every market in Europe and its colonies. I shall close this head with a reference once more to Mr. Payne's state of exports for the two periods, and shall add a dissection and corollary of my

own, which fills me with alarming ideas. Sir, of the 5,000,000*l.* (gentlemen, I believe, remember, the first period produced four millions a year, and the last three) of the 5,000,000*l.* lost in the last period, 4,000,000*l.* fall on your manufactures. First I must premise; in the Custom-house accounts you see two heads of exports; one under foreign goods and merchandise, the other under British manufactures and produce. The decrease on the foreign part is but 850,000*l.* the remaining 4,160,000*l.* consist of British manufactures and produce. Sir, the produce cannot amount to more than the odd money; the produce being lead, salt, coal, tin, and other trifling articles; therefore the remaining decrease of 4,000,000*l.* falls upon your manufacture at the rate of 800,000*l.* a year. Now, Sir, I have got to compare with this decrease a state to shew, whether in the same period the linen manufacture has decreased in proportion. Sir, upon their own paper, and upon their own value I find, while your exports decreased in that proportion which fell upon your manufactures, principally the woollen, that the linen manufacture has increased above 300,000*l.* a year; what are we to understand by all these complaints? I desire to know, what check have they met with? Sir, it appears by those papers, that they have increased above 300,000*l.* a year, while your manufactures decreased 800,000*l.* a year. Here, Sir, I desire to hear no more of the vague accounts of the Custom-house, but instead of 4,000,000*l.* call the first four parts; instead of 3,000,000*l.* call the last three parts; then I tell those who did not, upon one occasion, know that five was less than nine, and on another, that twenty-five was less than thirty, I do insist upon it, that three is less than four; in that proportion have your exports decreased. No doubt, there are errors in the Custom-house accounts; but as those errors are common to all periods, the proportion of increase and decrease is true. If four be more than three, which is my way of calculating, there is a decrease of one fourth part; of that, four-fifths fall upon your manufactures. I will tell another most extraordinary thing: of that decrease in your manufactures near three-fourths is in the export to Germany, and but little more than one-fourth to Holland, though Holland for twenty years together, had taken considerably more of your exports than

Germany; but the exports direct to Germany chiefly go to that part where the linen fabrics are carried on. I must mention an æra that appears very singular to me; others may call it ominous. The year I look back to is 1767, when I had the honour of a seat among you, I did with others oppose a new duty upon German linen, upon the same principles and arguments I used this day; a predominant interest overpowered us: but it is strange, that the decline in your woollen manufacture just coincided with that year in which you laid the new duties, particularly upon Silesia lawns. This being the case, your linens increased as your woollens decreased; and this all proved from their own papers. I have, in the beginning of my discourse, Sir, admitted a decline; so I did. What is the nature of that decline, and extent of it, I will explain to you. There was no other check, but what came from paper circulation; I know of no other. Your exports plainly have been checked. What is the nature of that check upon the linens? They made the full quantity in 1772; in 1773, Ireland made a tenth part less than they did the year before; which, Sir, is a fluctuation that may be the effect of any common casualty in any great manufacture; and to say, because in 1773 they made two millions two hundred thousand yards less than in 1772, that that has occasioned an emigration of thirty thousand people.—Sir, it is an affront to your understanding, to come and allege such an argument as this. Such an accident might have happened without any man's being able to assign any cause at all. Whim, fancy, mode, will make an alteration of a tenth part one year with another. Add the Scotch and Irish together, it is but a seventh or eighth part diminution in both, between 1772 and 1773; it is all the check they have met with from that paper circulation, which shook the credit of England to its basis. Why, now, Sir, let us add, that in 1773 foreign linen was reduced a third; in 1774, I pledge myself, it will be reduced lower. As these people have the markets here before them, and their ancient competitor in this crippled state, with what propriety, with what decorum is any favour of any sort due to them, who have been proved to be increasing when your great staple was decreasing, and is still, from no other cause but from the dreadful northern projects, while the linens are now in a situation to be en-

vied by every other manufacture, even by that great staple itself? Sir, asking a favour under these circumstances for a manufacture, is overlooking your own great staple. Sir, such a preference would be an insult upon the first interest of this country, the landed interest; it would be an insult upon the second, the commercial and manufacturing interest; it would be an insult upon the common sense of every rank and order in this country. And, why? Sir, is it because your own manufacturers have not vexed parliament with applications; have not applied to you, Sir, as the grand physician of the state, and treated you as an empiric to undertake distempers incurable, but by time and necessity? Is it because their complaints have been only whispered and murmured within their own neighbourhood? Have you not seen the streets of the capital filled with mendicant cries of miserable swarms from the silk manufactory? Were not these people content to render themselves the objects of private charity? Did they come to your door? Who is it that has molested parliament and exhausted your time? Did other manufacturers, particularly the poor weavers, under all the horrors of northern paper circulation, which even diminished the traffic and consumption among yourselves? Did they not submit in quiet, did they ask your aid? No, Sir, they never wearied and troubled parliament. Is parliament, are committees to sit, is the whole House to be taken up under all these circumstances, which I do say, I have proved? Is it for one manufacture in a state to be envied at this time by your woollen manufactures? As if the first in that envied state are the only objects of parliamentary attention; and must you overlook all others, because they have been silent, because they have been patient, while those others, Sir, the authors of all the evils (I say again) desperate in undertakings, even of credulity and hope, desperate alike under disappointments, whether imaginary or real, are now come, not intentionally but eventually, to widen the wound already given to your own great staple, to empty your populous towns by unravelling, with obtuse and impolitic violence, a texture woven with so much attention by the wisdom of your fathers, and maintained by your own; that texture, which the guardian power of your island extends over the whole empire, to distribute those copious faculties which constitute your

national security and greatness, I mean your system of foreign trade? And upon what allegations, upon what calculations, what arguments and deductions I need not repeat. And what time has this unfortunate people chosen to raise a flame among all the great interests of this country? At a time, I tell them, when the salvation of their country depends upon the faculties of England, and her liberal and immediate application of them to preserve a restless, ambitious, and improvident sister. Sir, this leads me now to the last head of my subject. I have shewn you not only the cause of the distemper, but where it lies. Sir, it lies there still; that sister is as much distempered as ever, and she must be saved; for it is impossible that Scotland can fall but London must totter; and yet, Sir, her distemper is of so peculiar a sort, that it is not curable by time and necessity; but it may by parliament. Now, Sir, I will shew to you what the disorder is. In consequence of so many unsuccessful projects (I shall not be contradicted, Sir), she has contracted a capital of debt to England, a recent debt, all within four years, which she can't pay; it would be injurious and indecent for me to hint at any thing more than one society, about which I professed never to keep a secret; it now owes 600,000*l.*; pay day must come; I hint at nothing else. Payments in the shape of interest and annuities have created an annual drain upon that country it cannot bear. There is another new annual drain created by their own credulity, which taking their increased paper currency for an addition of solid wealth, increased their expence of living in proportion. The imaginary wealth is vanished, and the habit of expence remains. I do take upon me to say, I defy all Scotland to say, they understand their affairs as well as I do; no, Sir, not all Scotland together. I don't speak with vanity, I pay myself no compliment when I say so. Then, Sir, what must be done? Nothing but an immediate influx of money. England, I believe, is awakened from her stupefaction, and will no longer be fascinated at the sight of Scotch acceptances and indorsements. Money they have not. Now I come with my remedy. You have already passed one Bill to ratify the agreements made with the annuitants of Douglas, Heron and Co. Sir, I make no doubt, you passed that Bill upon those principles corresponding with your dignity, which are

public principles; if that proposal had not taken place, you would have seen the same scene of desolation in 1774 as in 1772, therefore it was from public principles. The authors of that Bill acted upon those principles, to protect public credit from such another stunning blow which it received in 1772. All is due to the noble personages in that affair, whom I not only love and esteem, but admire; they, by the severest losses, purchased an opportunity of shewing to God and man, how much the chaste light of honour and probity exceeded the glare of pomp and title. But their own, in this affair, was but a secondary consideration. I have taken up too much of your time already, or I could demonstrate from facts, taken upon my own knowlege, that you would have seen a return of the same desolation before the expiration of 1774. This is only a part of a plan to save Scotland. I believe, we shall not lend them money on their bills and notes, but are willing to lend them money upon land, an indubitable security incapable of fallacy. I cannot miss this opportunity of recommending another Bill, which is under the consideration of the learned gentlemen of both kingdoms. I am so convinced of the necessity of it, I cannot omit this opportunity of recommending what I mean by a radical cure. There are objections to Scotch mortgages, which will deter English lenders. In the first place, money lent upon a Scotch mortgage is not personal property nor devisable by will: John Bull will not lend upon such principles; and if you want the principal, it is not recoverable as in England. Sir, there must be a Bill, which is under consideration, to put Scotch mortgages upon the footing of English ones. Now, Sir, it will be an advantage to the South Briton to lend out his money, so perfectly secure, upon so high an interest. It will be in the power of the North Briton to pay that interest, from the profitable use he will make of the money; for, by that means, in a few years, he may be enabled to pay his debts, and to be at ease, like the other parts of the kingdom: and this, Sir, will tend to extract the very root of all their distemper, which is pride and ambition, upon this axiom, that in all communities which are most at their ease, the spirit of project prevails the least. I want to put Scotland into that state of ease; they then would find how much more comfortable it is to enjoy advantages slow and sure,

from moderate, temperate trade, and look back with horror upon those paroxysms of mind in that dreadful interval between the birth of a project, and its last fatal dissolution. They have room for improvements; they can make ten, fifteen, twenty per cent. and afford to pay you five; you, by these means, make a sister kingdom happy, and cure her both in mind and body.

Now, Sir, my peroration shall consist in a single request; that you, Sir, and the committee, will be pleased to accept such expressions my gratitude may furnish, of sensibility for so much indulgence, so much of your time and patience; and if, Sir, I have performed what I undertook; if I have ascertained the genuine cause of the disorder; if I have shewn what are not the remedies, what is the nature of the distemper, and what is the cure: if, Sir, I have used no language illiberal, no arguments fallacious, no allegation untrue; if, Sir, besides the accustomed grace and humanity within these walls to all who appear open and undisguised at the bar; if, besides the complacency of those among my honourable hearers, who may not know me, or the partiality of those who do, I may, Sir, be dismissed from this place, under the humble hope of having obtained the smallest share of your solid approbation, in consequence of having thrown the slightest spark of light upon a subject so copious and national, this laborious exertion of mine, full late in life, and I trust the last, will be deemed by me, as auspicious and honourable for the remainder of my days.

May 5. The House went again into the said Committee, when

Mr. *Foster*, the agent for the Russia Company, appeared at the bar of the House, and spoke as follows:

Sir, I appear here as agent for the Russia Company. Before I call in the witnesses whom I shall beg leave to examine, I will take the liberty to acquaint the committee what has been the occasion of my giving them this trouble.—The Russia Company perceived, by the Report of the Committee appointed to enquire into the present state of the linen trade in Great Britain and Ireland, that a considerable decay in that trade was complained of, and imputed (among other causes) to the increased importation of foreign linens; and to the importation of them on too low duties. And finding that

some of the witnesses, examined by the committee, had imputed part of the evils they complained of, to the interfering of Russia linens, the Russia Company thought it incumbent on them to desire to be heard; in hopes that by indisputable evidence, they could convince the committee that no part of the evil complained of could, with justice, be imputed to the increased importation of Russia linens, or to the importation of them on duties too low.

I wish, Sir, to lay before the committee a state of the trade between England and Russia; in doing this, the points which, among others, I should be most solicitous to establish, are these: that the linens imported from Russia are of such a quality as to be chiefly consumed by the poor: that the want of them could not be supplied by any of the manufactures of Great Britain: that the importation of them is not increased: and, that at present they pay an high duty: that our importation of flax is considerable: that the manufactures of Great Britain, exported to Russia, exceed in value the Russian manufactures imported into Great Britain: that the duties paid on the importation of the woollen manufactures of Great Britain in Russia, are low, in comparison of those paid in Great Britain, on the importation of the linen manufactures of Russia: that the whole of the trade between Russia and Great Britain is carried on in British shipping; and that the British merchants, resident in Russia, enjoy very valuable privileges, not granted to other European nations. I will now beg leave to call in our witnesses.

[Mr. Samuel Stratton was then examined on those points which related to the importation of Russia linens; and his examination having taken up a considerable time, it was not thought necessary to call Mr. William Edwards, who was prepared to have given a full and circumstantial evidence on the same points.

Mr. Nicholas Cavanaugh was examined on those points which related to the exports from Great Britain to Russia, to the exportation of flax from Russia, to the quantity of British shipping employed, and to the privileges granted by the Russian government to the British merchants resident in Russia. His evidence having been clear and circumstantial; the agent thought it unnecessary to call other witnesses, who were ready to have confirmed it.] The agent proceeded thus:—

The evidence which has been laid before the committee, I think, amounts to this; that the linens imported from Russia are chiefly used by the poor; that the want of them could not be supplied by our home manufactures; that the importation of them is decreased; that the annual amount of these importations is from 100 to 140,000*l.*; that the present duties on the importation of them, amount, in the lowest instances, to above 26 per cent. on the value; in the highest to above 50 per cent.; that an increase of duty would increase the price to the poor; that our exports to Petersburg only amount to about 300,000*l.* annually; that of this sum, the manufactures of Great Britain amount to 200,000*l.* the unmanufactured produce to 100,000*l.*; that the duties paid on the importation of our woollens, in Russia, are between 17 and 18 per cent. on their value; that the shipping employed by us is 170,000 tons; that we import between 7,000 and 8,000 tons of flax annually; that our merchants resident in Russia have distinguished privileges.

This being the state of the evidence, I understand I may be permitted to make some observations on it, and on other circumstances of our trade, in which I shall endeavour to be concise. I mean to confine myself strictly within my proper limits, the business of the Russia Company. The general subject before the committee was amply entered into by Mr. Glover, who, through life, has been distinguished in the literary, the commercial, and the political world. I should little expect to be attended to, if, after him, I was so impertinent as to enter on the subject at large.

The business of the Russia Company lies within a small compass; perhaps no argument of mine will be so strong, as the inexperience and want of ability you will perceive in me, their agent: had they had a doubtful cause, they would have used some diligence to have sought an able advocate; they would not have trusted their affairs to my management.

By the evidence of Mr. Stratton it appears, that the poor can furnish themselves with the linen manufactures of Russia, on much cheaper terms than with any of our home manufactures; he has not mentioned on how much cheaper terms; but, I think, I have heard they may clothe themselves at two-thirds of the expence; and this with a linen, which,

[VOL. XVII.]

having paid to government one third of its value at least in duty, has already been assistant in some measure even to those who wear it, by contributing to those wants of the state, which, if they were not alleviated by duties on foreign importations, must fall still heavier on the necessities of life than they now do. Under these circumstances, if the committee are convinced that the linens imported from Russia are serviceable to the labouring poor; if they find that, in these times of distress, they afford them a much cheaper clothing than they could procure from our own manufactures; it is then evident, that any increase of duty, or any impediment thrown in the way of our linen importations, would be an additional burthen, not on the fantastic wants of the elegant and luxurious, but on the necessities of the whole class of our laborious poor. There needs no argument to convince the committee of the inexpediency, I am tempted to add, of the inhumanity of such a measure—a measure not necessary, as I conceive, for the relief of those who have applied to you, Sir, for assistance.

The inconveniences they suffer are not imputable to us; for the decay they complain of in their trade cannot be imputed to the increase of our importations, as the most experienced of our importers has informed you, on his own knowledge, that the importation is decreased; and that it is so, is notorious.

You have heard, Sir, what the duties paid on Russia linens are; that they amount in the lowest instances to above 26, in the highest to above 50 per cent. on their value; after this, the committee will not think a decay in the linen manufactures of Great Britain and Ireland can be imputed to the increased importation of Russia linens, on too low duties. We are confident, that the wisdom of parliament will not adopt a measure ineffectual to the purposes for which it would be designed, injurious to the labouring poor, and which in its consequences may be highly prejudicial to every manufacture of these kingdoms, the linen manufacture itself not excepted.

For we have shewn you, that the whole value of our exportations to Russia amounts to above 300,000*l.* annually. Mr. Cavanaugh spoke only as to the exportations to Petersburg, which he said amounted to about that sum. That the value of British manufactures exported, exceeds considerably the value of the Rus-

[4 D]

sian manufactures we import; so that, the trade of manufactures only considered, the balance is in our favour. That our woollen manufactures pay, on their importation into Russia, a duty only of between 17 and 18 per cent. on their value, while the duties paid on the importation of Russian manufactures into Great Britain, amount to double that proportion. Now, should we increase this high duty on our part, the soundest policy would warrant, the strictest equity would justify, the Russian government in increasing their duties on British commodities: nor would there be the same objections from internal policy as with us; for many of the articles imported from Great Britain into Russia, are not to supply the wants of the necessitous, but to contribute to the elegancies of the luxurious. We cannot doubt, but, under these circumstances, the Russian government would increase the duties on our manufactures, and, lessening the attention they now give to the linen, their only considerable and favourite manufacture, they would, on the principles of the soundest policy, give countenance to any efforts to establish other manufactures as the rivals of ours. These ideas are not wantonly produced from the hoard of an inventive imagination. The Russian government is possessed of the truest principles of commercial policy. The sensible edict which precedes the tariff of 1767 warrants this assertion.

But this is not the only bad effect which might be the consequence of our endeavours to check the Russian manufactures of linen. There is a measure which the Russian government might adopt, which would affect materially, and as I conceive, affect only the linen manufactures of Great Britain and Ireland. When you recollect that our importations of flax from Russia are between 7 and 8,000 tons yearly, you will be aware how materially a very high duty on the exportation of this article from Russia would prejudice our linen manufactures. Should we endeavour to injure the Russian manufacture of linen, this would be an obvious, a just, and I am sure, it would be an effectual remedy, as it would lower the price of flax in Russia, by tending to prevent the exportation of it, and raise the price on our manufacturers. Should urgent occasion, should sudden resentment, prompt the measure, why might not the Russian government totally prohibit the exportation of flax?

Nor are these the only mischiefs we have to fear, should we throw any difficulties in the way of the favourite manufacture of Russia. You have been informed by one of our witnesses, who has been resident in Russia, and who speaks from an experience of thirty two years, that the British are a favoured nation, favoured in a very peculiar manner by the grant of privileges denied to other nations; privileges of a nature peculiarly acceptable to a Briton. We almost carry with us into Russia the freedom of our own happy country: a ray of British liberty breaks through the gloom of northern despotism, and enlightens the dwellings of a Briton in Russia. Not only favoured, and materially favoured in the manner of paying our duties, the friendship of the Russian government has given us a degree of personal freedom beyond what the subjects of Russia, beyond what any other nations enjoy in Russia. The arbitrary order of an inferior military officer cannot quarter soldiers in the house of a Briton; nor exact, as he can from others, even from Russians of the first rank, pecuniary amends for not molesting him with such troublesome inmates.

A British merchant is not amenable, in matters relating to business, to any of the inferior courts of justice, the seats of endless and uncertain litigation; his cause is heard by the college of commerce, a court that considers itself as the guardian of commercial rights.

The subjects of Great Britain resident in Russia, are not confined in the disposal of their effects at their death, by the Russian laws of inheritance; but they may dispose of them, by will, in such manner as is most for the interest of their families.

In cases of bankruptcy, and of legal arrest, very valuable privileges respecting personal freedom, are enjoyed by our countrymen in Russia.

It is evident by these repeated instances of favour, that the Russian government wishes to be on the most friendly terms with us; but Mr. Cavanaugh, in consequence of a question from an hon. member of this House, has told you that the Russian government thought themselves aggrieved by the additional duties laid on linens in 1767; and surely they were not without reason for thinking so; that part of the duties particularly, which was an additional duty on all linens above 36 inches broad, fell heavily on our sheeting, which already paid a duty on a rate equal

to their value, and established as lately as the year 1765. This measure, we had reason to think, was advised by a person who had himself, or whose near relations had, an interest in a manufacture of sheeting, whose motive was to check the importation of Russia sheeting, in order to benefit this manufacture—the effect, I believe, in no respect answered his expectation: Russia sheeting continues to be imported, is still used, and will continue to be used, as long as it is found to be superior to every manufacture of the same kind. This is a striking instance of the inefficacy of additional duties on foreign linens, in assisting home manufactures.

I cannot quit this subject, without digressing a little, to mention with honour the conduct of the inhabitants of that town, for whose benefit this measure was supposed to have been advised. They have had the sense to perceive what they could not do; they have had the genius to discover what they could do. Encouraged only by the grant of the importation of their raw material free of duty, by their ingenuity and persevering industry, the inhabitants of Manchester have brought their cotton manufacture to a degree of excellence beyond, I believe, their own most sanguine expectation. A very considerable, a very increasing, exportation of this beautiful manufacture to Russia, contributes to reward the genius and industry of the manufacturers. But to return to my subject.

The British nation has been hitherto considered as the friend of Russia: independent of the important privileges we enjoy, the peculiar civility and attention paid by the Russian court to the subjects of Britain, are alone proofs of its friendly disposition—shall we hazard this established friendship, these important privileges? Shall we hazard the benefits we receive from a considerable, an increasing (for such it is) exportation of our own manufactures, by a measure ineffectual to the purposes for which it would seem to be designed, and immediately injurious to the most valuable of our subjects, the labouring poor, of our husbandry, and our fisheries.

I suspect it may be thought that I have forgotten the real state of the trade between Russia and England—a trade, the balance of which is very considerably in favour of Russia. There is no one circumstance of our trade to which I more sincerely wish to engage the attention of

the committee. Other branches of commerce boast of the balance they bring home; that is, supposing theirs was the only trade carried on, of the quantity of gold and silver they would introduce into Britain. But, Sir, of gold and silver you can neither make an anchor nor a ploughshare. The instruments of agriculture, of navigation, and of arts, are produced by the mines of Siberia, not by those of Peru. The articles we bring from Russia, our hemp, our iron, our flax, are so indispensably necessary to us for every purpose of agriculture and of commerce, that, had we no export trade, it would be very expedient we should attentively cultivate the friendship of Russia on account of our import trade only. The Russian government has been for some years engaged in an expensive war; a very considerable revenue might be raised by additional duties on hemp, flax, and iron; a tax we must pay, however exorbitant it might be. The annual want of 7 or 8,000 tons of flax would be felt by our linen manufactures; hemp and iron we must have; without them our navy, our commerce, our agriculture, are at end; without them, where would be our wealth, where our naval honours? The gold, it is true, would be produced in the mines of Peru, but not for us; we obtain it, not by plunder, but by commerce; by a commerce protected, when attacked, by our naval strength. You will never, Sir, think that trade a prejudicial one, which brings home the materials, without which commerce could neither be undertaken nor protected. You will think that trade an advantageous one, which, carried on entirely in British ships, employs annually 170,000 tons of shipping.

Popular prejudices prevail against contractors. I never yet heard a whisper raised against the contractors with the government for hemp; the navy is supplied with this useful article of our trade on terms as reasonable as any private rope-maker. We have, among the members of the Russia Company, names as distinguished even for fortune as any in the city; but their fortunes were either inherited, or acquired by that gradual industry and economy which used to give credit to the name of merchant; they are not fortunes acquired by the plunder of government, by rapine, or by a mad spirit of enterprize as mischievous to society as either. While I am recollecting such members of the Russia Company, I cannot but place at

their head the venerable name of Mr. Netleton, our governor, who has passed a long life, equally respected for his abilities and integrity, who, for many years, has found, and still finds, at a very advanced age, in the chair of the Russia Company, the 'honestissimum domicilium senectutis.'

I have now laid before the committee the circumstances of the Russia trade, useful to the community, I trust, in every branch of it; exporting annually more than 300,000*l.* in value of our products, of which sum two-thirds at least are our manufactures, importing chiefly the most necessary raw materials. The manufactures we import do not amount to more than one-eighth part of our whole importations, and those manufactures of a coarse quality. Our more considerable imports are hemp, iron, flax, tallow, timber, deals; all necessary for the uses even of the lowest class of people, not one offering at the shrine of luxury. The severity of a Spartan government would have given countenance to a commerce like this.

I have said nothing relating to the subject of drawbacks on exportation, as I am unwilling to take up the time of the committee about a matter which, as a part of the general subject, was considered by Mr. Glover. One of our witnesses, Mr. Stratton, has informed you, that, since the taking away the drawback on Russia sailcloth, considerable quantities of it go from Holland to our colonies; that we do not send more than one quarter of the number of pieces we used to export, the remaining three quarters are now an aid to the trade and navigation of our neighbours the Dutch. Such a fact is of more weight than any argument!

It is time that I conclude.—If, Sir, the committee are convinced that the suppositions of an increased importation, and of an importation on too low duties, are groundless—that our importations of linen are highly serviceable to the poor—if they think that any alterations in the state of the duties on Russia linens, might have a tendency to check a very beneficial and increasing exportation of our own manufactures; and an importation of raw materials advantageous to our British and Irish manufactures of linen, and essentially necessary to our navy and our commerce, we are confident we can have nothing to fear.

May 17. The House went again into

the said committee, when the following debate took place:

Lord *Frederick Campbell*. The long and continued attention which has been given to this affair, and the great consequences which it is supposed will result from it, have very much engaged the minds of men who have thought themselves interested. Sir, the course of evidence through which we have gone, has proved, beyond a possibility of doubt, that the linen manufacture of both Great Britain and Ireland has greatly declined: of the causes of this decline, opinions have been various: on one hand it is asserted to be owing to the rivalship of foreign linens; on the other, that it has been occasioned by the failures of credit. It would carry me too far to go into those matters at present. Sir, in consequence of this decline, propositions were thought of to support it, which unexpectedly raised a general and very extraordinary alarm: gentlemen concerned for the woollen and other manufactures of the kingdom were frightened, lest the great staple of the kingdom should suffer. In consequence of this unexpected alarm the propositions designed to be made were laid aside, and instead of them, I shall now make a motion, which, upon the most mature deliberation, I apprehend will meet with no opposition: it is, Sir, "That a bounty of three halfpence per yard be given on the export of British and Irish linens, painted, stained, or printed." I must remark, Sir, that this is no new proposition, it was a bounty given many years ago, and not discontinued till the year 1756; for what reason I know not; it is not particular either to Ireland or Scotland, it is meant to be to British and Irish in general. This is so reasonable a point, and so little open to the opposition which was made to the supposed propositions, that I apprehend, Sir, it is impossible for any gentleman, upon such principles, to declare against it; it can raise no fears of retaliation from foreign princes, no duties are asked for, no other manufacture can suffer; in a word, this idea goes merely to the support of the distressed manufacturers of Scotland and Ireland, who are in such a condition, that unless something is done, I know not what fatal consequences may flow from it.

Lord *Beauchamp*. I rise, Sir, to second the motion made by my noble friend, which appears to me to be so perfectly reasonable, and to avoid in every instance

and consequence any the least evil, that I do not apprehend any opposition will be made to it. The noble lord has mentioned propositions which were supposed to be necessary for re-instating the manufactures of Scotland and Ireland, but which have been laid aside from finding how strongly they were contested: the present idea is very small, compared to what the necessity of the case seems to require; but still, that something should be done, appears so clearly, that even this small matter of encouragement is wished for. I must recal to the minds of gentlemen the miserable state of Ireland, to which I shall more particularly confine myself, having opportunities, from my connections, of gaining information that can be depended upon. Sir, the decline in the great staple of that kingdom; the only staple, has been proved sufficiently clear at your bar: the number of looms unemployed is immense; emigrations to America are alarming to a high degree; for let it not be forgotten, that these emigrations are from the Protestant part of the kingdom, and consequently, that you are doubly weakened by them. When poverty and distress are coming so fast upon the most industrious part of the kingdom, that they are forced to leave it to take refuge in other countries, carrying with them their skill, their industry, and even the implements of their business; when this is plainly and uncontrovertibly proved to be the case, how any gentleman can be against giving this small assistance, in order to prevent so great an evil, I cannot readily think; and I therefore suppose, and hope, that the proposition will meet with general approbation.

Lord North. I think, Sir, that the motion of the noble lord contains a proposition very reasonable, in its present form; the distress of the linen manufacture in the three kingdoms has certainly been proved in the clearest manner; but, Sir, I must observe one thing which I think very essential in the general enquiry, though perhaps not particularly bearing against the present proposition; it is that the gentlemen who have patronized this matter, have totally failed in the first thing which they attempted to prove;—that the decline of the linen manufacture was owing to the increased importation of foreign linens; that matter has totally failed them. It has, on the contrary, been clearly proved, from authentic papers and evidence, that the importation of foreign

linens has decreased in a greater proportion even than the decline of the Scotch and Irish manufacture; consequently that part of the enquiry falls entirely to the ground. Now, Sir, as to the present proposition, considering it as an old bounty revived, for the suspension of which I see no good reason, I must own it appears perfectly reasonable; and as the bounty given already upon plain linens, being extended to the same manufacture in a more improved state, is consistent with sound principles of commerce, I shall not be against it. Indeed, it appears to be rather absurd, to give a bounty upon the export of a fabric in a lower stage, and not give it upon the export when improved by farther manufacture; this conduct appears to be contrary to first principles. But, Sir, there is a farther enquiry in this affair, which is, what damage may from this bounty accrue to our printed cottons? If it should have the effect of injuring those fabrics, it will prove a sufficient reason against it; but that must be matter of evidence. No bounty must be expected in return upon them, for they at present can support themselves without a bounty. The matter is therefore plainly this, if the proposition is perfectly reasonable, I think it should be granted, provided it is proved that it will not destroy another manufacture.

Governor Pownall. The proposition now made by the noble lord, is so far short of what was expected, and the ground for our consideration is so narrowed, that I cannot trouble the committee with any thing on the general subject, on which I had much to say; and I shall trouble it with very little on the present question, as there can be but little said on it.

At the same time that I state how the ground now stands, it may not be improper to remind the committee how it stood when the matter was first agitated. The avowed purposes for which this enquiry was instituted, gave great alarm to the landed interest of this country: at a time when they knew that the woollen manufacture of this kingdom had been for some time under a gradual decline (it had in the years 1772 and 1773 suffered a violent shock, and remains at present under a very critical check,) they were not a little surprised that the linen manufacture alone should seem to demand our attention; that that branch alone should claim our relief. Jealous of this competition, and conscious of the importance of their own interest,

they formed a meeting to watch the motions of this measure, and they consulted and united with the commercial interests of this country.

The gentlemen of the meeting not only attended every step of the business of this committee, but carefully re-examined, from time to time, the whole state of the evidence given in the several papers and accounts laid before the committee; and also that given by the persons examined at the bar. This matter was not considered by them, nor examined in any partial view, either as to the object, or with any national prejudices. The whole state of our manufactures were considered by this meeting, as being part of the general interest of Great Britain. The ground of complaint, whereon the application has been made, was fully enquired into, the reason of the relief sought, and the effect it would have, was duly weighed. If we had been convinced that there was ground whereon to state any distress in the linen manufacture, peculiar to that, and not common to the rest, we were disposed, we were determined, to give our weight; if any means had, or could have been proposed, which might give relief thereto, without hurting the woollen or other manufactures of this country, without giving further preferences against these, we wished to consider it. That which had been proposed we could not acquiesce in; nor, upon mature, dispassionate, and impartial investigation of the matter, could we find any peculiar case, as a just ground of the complaint.

We then, in a general view, considered those principles from which the establishment of all manufactures must derive. If they are so grounded as to be profitable to the manufacturer, and advantageous to the community, they must be such as to employ the poor, to maintain those they employ, to create a stock of profitable labour in the community; and that stock should be such as may be converted to national purposes. On these grounds we examined the state of the linen manufacture.

I should here have gone into a full state of this object, its progress and advancement: it will, however, be sufficient to observe, that a fabric, where it is not founded on materials of the land where that fabric is established, but upon a foreign material, which comes so dear, and takes such a share of the profit of the fabric, that a manufacturer cannot have his proportion

of that profit; if the fabric when it comes to market is to sell upon a par with other fabrics of the like nature; or if the manufacturer is to have such a share of the profit as he can live upon, and the deficiency of the price is to be made out by bounties paid by the community at large, that manufacture, however it may answer the particular local profits for a time, can never convert to national purposes in general, or upon the whole.

I should now have fully considered the nature of duties laid upon foreign linens, by way of giving preference to our own. I should have considered every encouragement that these have had, and the effect and operation of such; and should have shewn, that, contrary to the spirit of all former parliaments, in the year 1742, the idea was first taken up, and carried into execution, of making foreign linens come dear to the poor consumer, because our own manufacturers could not make them cheap. It is, however, sufficient at present to say, that under the advantages which the British and Irish linen manufacture has had, it has increased to a very great degree, so as to obtain more than an equal share in the commerce of this country, as to the consumption of linens. Of 49 millions of yards of linen, which make the total amount of our commerce in this article, 32 millions are of British and Irish fabric; 25 millions of foreign; 22 millions of home-made manufacture are consumed within the kingdom, 17 of the foreign, 10 millions and three-quarters of the British and Irish manufacture go into our exports, 7 millions and a half only of the foreign; and this I think I may venture to affirm is a very good share of that branch of business.

The nature of the question now proposed confines the debate simply to the article of bounties, and to those I shall now more particularly confine myself. All bounties should be only temporary, as they are only given as a help to the outset of an infant manufacture; if I may use the expression, they are as a go-cart to the infant that it not yet able to stand on his own legs; but if that child is kept too long in a go-cart, it will go upon crutches as long as it lives. Let us see how the fact stands as to this. In the year 1742, bounties were first given to the home linen manufacture, for seven years; three years afterwards they were enlarged and extended. In 1749, though the manufacture had grown up considerably in bulk, yet not having

grown proportionably in strength, those bounties were continued for several years longer. The manufacture continued increasing in size and interest, but still being of a poor and weakly constitution, though it got out of its go-cart, it was obliged in the year 1756, to be put upon crutches. And it has grown taller and taller, we have been obliged from time to time, to lengthen out these crutches, and it will go upon them to the end of its existence.

Viewing bounties, as they affect the state of the manufacturer's account; as as they begin it with a false credit, the balances will be continually false; and they never will afterwards be able to rectify them. This is the actual state and operation of the bounties on the linen manufacture; for though they have increased under them to a very great degree, yet we are continually receiving repeated application for further and further preferences and bounties, which, however, never will be adequate to the purpose. As a manufacture, so far as it is founded on an original radical defect (the establishing it on a foreign material, that comes too dear to be so wrought up by the home manufacturer, as to be brought to market upon the general scale of prices), must always have the balance against it: so far as a manufacture is founded on the native produce of the country where it is established, there it may be beneficial, and every encouragement that can ought to be given to it.

As to this particular bounty that is now applied for, the home manufactures did possess it, from the first establishment of bounties till the year 1756. From experience it was found to operate as a preference against the cotton manufactures of Lancashire. The manufacturers therefore of that branch, though they did not want a bounty, yet applied to have a share of this, in order to avoid that preference. The manufacturers, rather than submit to give them a share, chose to drop it; and, till the year 1770, went on very well without it. In that year they applied to have it restored to them; but it was found, if the Lancashire people were to share with them, that it was impracticable; and therefore it was again dropped upon the very ground that I apprehend this present committee will reject the proposal.

We have already a very great and advantageous trade in the linen printing: if this bounty should operate to any effect at

all, I own I have my suspicions, that it may, in some parts of the country, be carried on by printing foreign linens, and receiving the bounty on them as home manufactures. The operation of the bounty, in such case then, would only be the removing, the ruining the printing manufacture which we have at present, by setting up some other, which would be carried on under a bounty, instead of paying a considerable revenue to government, as the present does. If this bounty should be extended to cottons also, which do not want it, it might tend to distress the East-India trade of calicoes, which trade wants the assistance of parliament as much as any other that I know. Considering, therefore, this bounty now proposed as incapable of having any essential good effect, and as liable to many bad ones, I must give my negative to it.

Sir William Meredith. It has been very truly stated that the bounty now asked was once granted by parliament, but discontinued. It is asked why? I apprehend, because it was found to clash with another manufacture, that of cotton. The manufacturers of cotton asked no bounty, but the bounty upon printed linens gave a preference above the cottons, which destroyed the export trade of the latter. The advocates for the bounty upon linens knew so well that the competition lay betwixt that manufacture and the cotton, that rather than consent to an equal bounty upon printed cotton, they relinquished that upon printed linen. The object of this bounty is to give an export to our colonies and to the coast of Africa for printed linen. Four different sorts of washing goods are sent to these two places; India calicoes, Silesia printed linens, British printed linens and cottons. In every cargo the merchant is obliged to make part of his assortments of chintz and German linens, the Africans and Americans both preferring those linens to the other two sorts; and they would refuse to deal with our merchants at all, without a certain quantity of them, and that quantity is not a yard more than the merchant is of necessity bound to send, for he has longer credit upon the cotton and British linens, than upon the East-India or German linens; the quantity therefore of the two last articles cannot be diminished, and of consequence the only competition will be betwixt the printed linens, and the cottons manufactured in Lancashire. The bounty which amounts to above 15 per cent. will

give a certain fixed preference to the one, at the expence and to the ruin of the other. Experience has shewn that this bounty had that effect before, and the same cause that prevented the continuance, must now prevent a revival of it.

The Lord Advocate. That the present measure could not affect the woollen manufacture, is a point so clear that I have not heard any person even apprehensive of it; the point that alone deserves to be considered is, the supposed competition with some Manchester goods; but surely it must be apparent that this is merely ideal. Linen will, in the foreign market, come in competition with linen, long before cotton can have any thing to do in the case; foreign linens printed, painted, &c. have at present a sale in our colonies, owing to their being sold cheaper than our own; the thing they wanted, and which it is supposed this bounty will effect, is to give our linens a share in this market; that is the evident and the only competition; and as to any rivalry between these linens and the Manchester cottons, it is merely ideal.

General Conway. If the present situation of Ireland is considered, it will, I apprehend, be allowed by every gentleman, that something ought to be done to encourage the linen manufacture. Let the policy of this country be considered with respect to the treatment of that kingdom. They had a very rising woollen manufacture, which so much raised your jealousy, that you petitioned king William against it, promising to come into every measure for encouraging the linen manufacture of Ireland as a substitute for their woollen. The consequence of this event was, that the Irish parliament, in the most extraordinary manner in the world, committed suicide upon themselves, by destroying their flourishing woollen manufacture in order to go the more into the linen. You made an absolute compact with the Irish to give every encouragement to that linen, upon their giving up their woollen fabrics; and now, that very linen manufacture is going to ruin, you would reject their petitions for very trifling relief. Sir, I wish the affairs of Ireland were brought in form before this House, and the absurdity of laying such restrictions on their trade would then be seen. The Irish were not to export woollen manufactures; that threw them naturally upon the export of wool; then comes another of your acts prohibiting that; you forced them into

the linen branch. But this policy was weak: by means of the low price of labour in Ireland, they enjoyed a rising trade in camblets, serges, and woollen stuffs; upon the putting down that trade, the French got at once into the manufacture; they gained it, Ireland lost it, and you got not 6*d.* by your folly. It needs no argument to prove this absurdity, and the fact is known to all the world. The Irish woollen manufacturers went with their art to France, and the linen manufacturers are now going in a similar manner to North America, taking their machines with them; a plain proof of what they intend shall be their employment there. Sir, the state of that kingdom is deplorable, one-third of the linen manufacturers are out of employment, or have emigrated. The distress is universal, the poor are starving, the rents of the lands are fallen and daily falling; in a word, the whole kingdom is in distress. Is it not easy to see that the consequence of such a state will be a general impoverishment? And it well becomes gentlemen to reflect, that in proportion as Ireland grows poor, for want of encouragement in her linen manufacture, in just such proportion must the woollen manufacture of England suffer, for want of ability in Ireland to buy her cloths. This must drive the Irish to manufacture wool for their own consumption, from the inevitable necessity arising from not being able to pay for any other. Hence, therefore, the prosperity of the woollen trade of England materially depends on that of the linen manufacture of Ireland. It has been urged that the decline is owing to the failure of credit; but its being felt before that failure, is answer enough to that assertion, and no other cause except the rivalry of foreign linen was ever thought of.

Mr. Rose Fuller. I rise, Sir, only to say a word or two on the point of the rents of Ireland falling. I am very glad to hear it; for the distress of that country is owing more to the rapacity and tyrannical conduct of landlords, than to the decline of the manufacture, as was fully proved at your bar, when you heard the emigrations consisted as much of husbandmen as of manufacturers. Besides, Sir, this cause might as well drive away the latter as the former, since most of the manufacturers are occupiers of land.

Sir George Yonge. The great point which ought alone to influence our determination at present is, whether the decline

of the linen fabrics is owing to the import of foreign linens. Now, Sir, there never was an axiom in geometry more clearly proved than the contrary position; and this not from opinions, but authentic Custom-house tables, which the very friends of the measure themselves produced; the import of linens is lessened more than their manufactures: in a word, it is a point that will admit of no debate. What the right hon. gentleman says, of the manufacture feeling the decline before the failure of credit, will not hold water; it is from a fallacious splitting of years, and then the fact is not so; but look at every year's export in their own tables, and see if any thing can speak a more clear and decisive language; take year by year, take the average of any number of years, and compare it with that of any others; draw what comparison you please that is fair, and my assertion will be found true; but as to splitting this and that year, and comparing months and weeks, it is ridiculous. This great part of the enquiry, therefore, is decisive; but, Sir, I assert that there has been no decline to authorise an application to parliament; I assert that there is not a manufacture in this kingdom so complete in all its parts, in such good order, and so little declined as the linen manufacture of Scotland and Ireland; the great staple of the kingdom, the woollen manufacture, has reason to envy it. Every one of the clothing counties—and it is a fact which I pledge myself to prove, if called upon—are now declined in their exports more than the linen. It is the same even with the hardware; go to every manufacturing town in the kingdom, you will find the same complaints, founded on the most authentic proofs; and you will every where find the date of this distress to be June 1772. How could the linen manufacture expect to be exempt from so general, so universal a calamity? And why come to parliament for encouragement in consequence of distress which must in the nature of things remedy itself? Would it not be a most injurious neglect of all other manufactures to single out this as a favourite one, while there are so many others that deserve your attention far more, though not urged by noisy complainants at your bar. I do assert, that to give such a preference would be contrary to all principles of commerce, and repugnant to common sense. There is not a manufacture in the kingdom that now enjoys such bounties as the linen; and is not a fresh and

so ill-founded an application a proof that the more you do for it, the more you will be teized to do? I call it an ill-founded application, because the cause is general to all manufactures, and therefore to prove distress, which is common to every fabric, is proving nothing to the purpose—an observation which is an answer to all the pathetic descriptions we have had of the state of Ireland and Scotland.

Lord George Germain. I shall be for the present question, not because I think so inconsiderable a bounty as 4,000*l.* can have any great effect, but because it will shew the people that this House gives ear to their complaints, feels for their distress, and is ready to do what it can towards their relief; I should mean it rather as an encouragement to keep up their spirits, and as a proof of our good-will, than an effectual cure for their misfortunes. But I wish the right hon. member near me (general Conway) would bring the general affairs of Ireland, relative to our restrictions on their trade, before this House, that they might undergo a full revision, and be duly and clearly considered; as I am confident that then you would find it not only right, but necessary, to make some very considerable alterations in your policy of managing the trade of that kingdom.

Mr. Dempster. It being proved, that by granting the bounty now moved for on printed linen, no injury whatsoever will be done to the cotton manufacture, it would be mis-spending the time of the Committee to say one word more on that subject. It has also been proved, that those who are concerned for the woollens have nothing to apprehend from this bounty. I should not, therefore, have presumed to trouble the Committee, but for what has fallen from the hon. gentleman, who thinks the cotton manufactory will not only suffer, but will suffer by unfair means. He speaks of engagements between the cotton and linen manufacturers to make a common cause, and to accept of no advantage but what should be equally beneficial to both; this insinuation, I confess, hurts me. Engagements ought, and with me shall ever be sacred: but, in the first place, I know of no engagement. In the next, I must call the hon. gentleman's attention to the circumstances which have given rise to the present motion for a bounty on printed linen. Early in the session, when the Committee was moved for, the gentlemen concerned for the woollens took the alarm, and though, in my conscience, I think the

alarm groundless, yet it has determined them to oppose every encouragement intended to be asked for the relief of the linen manufacture: the House is thereby divided into two parties, and in a contest between linen and woollen I need not tell the hon. gentleman on which side the majority lies: the balance on this, as on most other occasions, is in the hands of the noble lord (North) who sits near him. That noble lord declares he will consent to no additional duties being laid upon foreign linen, but will concur in a bounty on printed and painted linen, if we will be contented to accept of that relief only. The state of the cotton manufactory not being before the House, and there appearing no necessity for a farther encouragement to it, the noble lord, as administrator of our finances, does not think himself warranted to bestow upon it any of the money of the state. In this situation of things, does the hon. gentleman really think the friends of the linen manufacture could either refuse the assistance offered by the noble lord, or contend for its extension to cotton? I am persuaded he does not; and I trust we shall stand justified in his opinion for the conduct we have held.

Another circumstance, not adverted to by the hon. gentleman, is the very different state of the present laws relative to linen and cotton printed cloth manufactured at home. As the law now stands, no printed cotton, other than the manufacture of Britain, can be worn in this kingdom. The wear of all others is forbidden by positive statute. The cotton therefore already enjoys a monopoly over the whole island; the law admits no rival to it; but printed foreign linens may be lawfully worn at home as well as printed British and Irish linens. Give us the exclusive sale at home, and I will answer for it, the noble lord will withdraw his motion for this paltry bounty, and be well satisfied with the exchange.

Sir, I must say a few words on the doctrine maintained in the present debate by other gentlemen who oppose this motion; I do not hope thereby to make many converts to my opinion: gentlemen have taken their sides; the fate of the day is already determined; but I have often observed that truth finds its way at last in this House; and however imperfectly I may explain myself to the Committee, if what I advance be true, I have no doubt it will strike other gentlemen who have more abilities, better talents, and more

authority to enforce useful truths than I can pretend to. I have heard it frequently asserted in the course of this proceeding, that there may be danger in encouraging our own manufactures; that those of foreign states deserve a preference; and that, to promote the sale of your woollens abroad, you should discourage the increase of every manufacture with which such foreign states can supply you in return for your woollens; and it has been particularly urged as an argument against encouraging the linen manufacture that the raw materials of which it is made come from abroad; and that the manufacture is not a natural one. Sir, if these doctrines are true, I am to learn my rudiments of the policy of this commercial kingdom. Hitherto I have understood, that the acquisition of a new manufacture, or the encouragement of an old one, were favourite objects with this House: that whoever applied to you for either of those purposes never failed of obtaining your approbation, nor of receiving your assistance. Could the petitioners shew that a sufficient quantity could be made at home to supply our consumption, you would grant them a prohibition on the foreign; but if the manufacture was (like the linen) of slow growth, then you contented yourselves with imposing, by way of regulation, such duties as would give in the market a clear preference to the home manufacture. Formerly, Sir, with the care and skill of true physicians, you felt the pulse as it were of the manufacture, and if you found it either stunted or languishing, you cherished it with cordials till its strength and vigour were restored. Let me remind the Committee of the progress of your laws in relation to the woollen trade, to your hardware, to your silk, your glass, your cotton, in short to all your manufactures without a single exception, but in the case of this hard-fated and unfortunate manufacture of linen, now the subject of our debate. I have been taught too, that this House never was over scrupulous or inquisitive from what quarter the raw material of the manufacture came: for I have been told that your finer woollen cloths are made chiefly of wool imported from Spain. I know your cotton wool comes from the West-Indies, and your raw silk from the East. Sweden and Russia furnish you largely with iron; yet to all those manufactures you have been liberally and wisely profuse, and have lavished on them every species of encourage-

ment—duties, bounties, prohibitions without bounds.

The woollen manufacture not only had no interest in opposing the bounty now moved for, but had an immediate and direct interest in supporting it. In their situation, Sir, I should reason thus: our woollen manufacture is on the decline, how shall we better its condition? Parliament has already done all we can in conscience ask or desire for it: no woollen cloth can be imported, no wool exported. The wool of Ireland must be sent here, and no where else, and every article used in the manufactory of it is exempted from duties, or favoured with draw-backs; nay, the very letters, however bulky, which convey our patterns from the manufacturing towns to the capital, and other places, are charged only with the postage of a single letter. We supply not only England, but Scotland and Ireland exclusively with our cloths. Having secured the Scotch and Irish for our customers, our next care in sound policy must be to enrich them, and enable them to buy more, and pay better: for that purpose let us, for our own sakes only (for in what concerns the woollen manufacture we despise the ordinary considerations of justice and equity), give them every encouragement they can desire for their linen: by this means we may retard their emigrations to America, and divert their attention from manufacturing for their own use the wool with which their countries abound. Sir, were they to reason thus, they would reason sensibly and logically, they would act on principles of sound patriotism, and treat the two great manufactures of these kingdoms as sister, not as rival manufactures; they would put an end to this unnatural war of the belly and the members, and they would find the good of the whole, can alone produce prosperity to the separate parts of the state.

The noble lord (North) who spoke, though faintly, in support of this Resolution, said he did not attend the examination of the evidence concerning it; but from what he had seen on your minutes, he was clearly of opinion we had not proved any case. With all due deference to the noble lord, I am inclined to think he has not attended much more accurately to your minutes than he did to the examination of the witnesses, otherwise I question much if he would have hazarded so strong an assertion. I will not go deeply into this point, Sir, but I must insist upon it, our case is too clearly proved. I shall

only mention two facts, which came out from the witnesses of the adverse party: all of them, Sir, informed you, that dowlas, or shirting for the lower class of the people, was imported from abroad, and sold here of a better quality, and at a lower price, than that which is manufactured in England. What else does this prove, Sir, but that either additional duties must be laid upon the foreign dowlas, or your own manufacture of it be undone? And this, Sir, is neither a Scotch nor an Irish manufacture, but an English one, in which twenty or thirty thousand people have formerly (though not now) been employed. The same witnesses proved, in regard to diapers, that all diapers, at and above 45 inches, were entered at the same duty; and that, under this denomination, diapers were introduced from abroad as wide as 60 and 70, nay 80 inches. Does this abuse require no remedy? or would it be wrong to correct so gross a defect and oversight in your present law?

And now, Sir, in regard to Ireland, I shall say but two words; your faith is solemnly pledged to that kingdom, and you are bound to give every encouragement to its linens, which you think fit to give to your own. It is a right they have purchased dear; for a full and most valuable consideration. These have, Sir, by acts of their own parliament, stifled and suppressed a most prosperous manufactory of woollen cloth, with their own wool, and the low wages of that country would have enabled them to carry to a prodigious height. I speak it with regret, but truth obliges me to declare, that as in this instance parliament seems determined to treat them with unkindness, so on former occasions it has treated them with injustice.

I beg pardon, Sir, for having intruded so long on the patience of the committee: I shall conclude with reminding you, that the fate of thousands of our most industrious and poor fellow subjects depends upon the issue of the present question. For though the bounty moved for will not be a complete relief, it will at least be some comfort to them. I shall therefore, Sir, give my hearty vote for agreeing to the Resolution moved and seconded by the two noble lords.

The Committee divided: for the Resolution 129. Against it 63. A motion was then made, "That the chairman do now leave the chair," which was carried without a division; consequently, the linen business dropt for the session.

The King's Message relating to the outrageous Proceedings at Boston in the Province of Massachusetts Bay.] March 7. Lord North presented the following Message from his Majesty:

“GEORGE R.

“His Majesty, upon information of the unwarrantable practices which have been lately concerted and carried on in North America, and particularly of the violent and outrageous proceedings at the town and port of Boston, in the province of Massachusetts Bay, with a view to obstructing the commerce of this kingdom, and upon grounds and pretences immediately subversive of the constitution thereof, hath thought fit to lay the whole matter before his two Houses of Parliament, fully confiding as well in their zeal for the maintenance of his Majesty's authority, as in their attachment to common interest and welfare of all his dominions, that they will not only enable his Majesty effectually to take such measures as may be most likely to put an immediate stop to the present disorders, but will also take into their most serious consideration, what further regulations and permanent provisions may be necessary to be established, for better securing the execution of the laws, and the just dependance of the colonies upon the crown and parliament of Great Britain.”

Lord North at the same time presented to the House the Papers relative to the said outrageous proceedings. As soon as the Message had been read,

Mr. *Rice* rose, and after remarking on the very critical situation of the whole continent of North America, and enlarging on the imminent necessity there was for vindicating the controuling right of the British legislature over the colonies, moved, “That an humble Address be presented to his Majesty, to return his Majesty the thanks of this House, for his Majesty's gracious Message; and for the communication his Majesty hath been graciously pleased to make to this House, of several Papers relative to the present state of some of his Majesty's colonies in North America: to assure his Majesty, that this House will, without delay, proceed to take into their most serious consideration his Majesty's said most gracious Message, together with the Papers accompanying the same; and will not fail to exert every means in their power, of effectually providing for objects so important to the general welfare, as maintaining the due execution

of the laws, and securing the just dependance of his Majesty's colonies upon the crown and parliament of Great Britain.”

Lord *Clare* said, he agreed with the hon. gentleman, and hoped he should find this measure carried through with unanimity; he should therefore second the motion.

Mr. *Dowdeswell*. I would be very far from offering any thing on the present occasion, which might wear the most distant appearance of opposition, or a desire to impede measures of such high consideration. Nevertheless, I cannot consent to give my voice, by any means, for what I am convinced in my soul is wrong; and though I do not mean to divide the House on any particular opinion I may entertain on the subject, I wish to have it understood, that I do not approve of the present hasty, ill-digested mode of proceeding.

Governor *Pownall*. I think the motion for an address extremely proper, as it can mean no more than to return thanks to his Majesty for the present communication.

Mr. *Edmund Burke* desired that the entries in the Journal of the House, of the 8th of November 1768, the 9th of May 1769, the 9th of January 1770, and the 13th of November 1770, of so much of his Majesty's Speech to both Houses, and of the Address of this House thereupon, as relates to the state of his Majesty's government in North America, might be read. And the same were read accordingly. He next desired the Clerk to search for the supposed Resolutions that were entered into by the House, in obedience and conformity to this communication from the throne; and none being to be found, he resumed his speech: Sir, (addressing himself to the Clerk) I am thoroughly satisfied of your integrity and assiduity in the discharge of the station you now fill; but however high you may stand in my estimation, I would much sooner suppose you guilty of some fatal negligence, which now leaves us at a loss for those proceedings, than presume the House to have so far forgot its duty to its sovereign, its country, and its constituents, as to omit what was so strongly recommended to its consideration from the throne, as well as what was in its nature so essential to our most important interests. And even you, Sir, (to the Speaker) I should not hesitate to charge as guilty of some improper conduct on this occasion, sooner than the House.

Mr. *Solicitor General*. The hon. gentleman over the way has endeavoured to entertain us with an epigram, but it wants

one of its most essential requisites, it seems rather too long. Foregoing therefore the wit, which here comes in somewhat unseasonably, I should imagine that the grand object we ought to labour to accomplish, on the present occasion, would be unanimity. The voice of this House should be that of one man. It is not what this administration has done, what that has omitted, or the mixed errors of a third, that we are now to consider. It is not this man's private opinion, or that man's; the particular sentiments of this side of the House, or the other. We are arrived at a certain point, and the question now is, in what manner we shall think proper to act. The proposed Address by no means precludes us from giving our opinions freely, when the matter comes properly before us, accompanied by the necessary information. When this information is properly digested, let us proceed coolly and with deliberation. We cannot yet determine, whether the dependence insisted on in the Message may be proper to be vindicated or asserted. We cannot even say but it may be entirely relinquished. We do not pretend to judge what sort or degree of connection may be necessary to be kept up for our mutual benefit. It perhaps may be prudent to grant them other charters, to enlarge those they already have, or to enter into commercial regulations different from those which at present bind them.

Mr. *Edmund Burke*. The learned gentleman, who has now held forth with so much ingenuity, and so great an appearance of candour, has left his epigram liable to the same objection which he made to mine; it is not short enough. Besides, he forgets to enumerate one of the qualities which distinguish an epigram, and which mine had; it, I think, carried a sting with it. The learned gentleman suggests (and I presume he speaks from authority) that the several governments in America may be new-modelled; that connections different from those already existing may be formed, and commercial regulations, planned on another scale, take place. But I will venture to inform him, that an English government must be administered in the spirit of one, or it will that moment cease to exist. As soon, I say, as the civil government of those colonies shall depend for support on a military power, the former will be that moment at an end. The spirit of English legislation is uniform, permanent, and universal; it must execute it-

self, or no power under heaven will be able to effect it.—Here Mr. Burke entered into an historical detail of the weakness and violence, the ill-timed severity and lenity, the irresolution at one time, and the invincible obstinacy at another, the arrogance and meanness of the several administrations, relative to their conduct towards the Americans for the last seven years. He observed, with some degree of severity, on the act of political indemnity, proposed by the learned gentleman, and his endeavours to confound all parties, as equally involved in the cause of the present confusions now prevailing in that country, contending that all dissensions, occasioned by the attempt to levy a tax there, gave way to perfect tranquillity on the repeal of the Stamp Act.

Lord *George Germain*. The hon. gentleman who spoke last has taken great pains to expose the conduct of different administrations, and to extol those who advised the repeal of the Stamp Act. For my part, however great the abilities and good intention of those gentlemen might have been, I was of opinion, that it should not be repealed, and voted accordingly. It is now contended, that that measure produced the desired effect, and that on its passing every thing was peace and tranquillity. I know the contrary was the case, and we had evidence at your bar which proved, that the Americans were totally displeased, because in the preamble to the repeal, we asserted our right to enact laws of sufficient force and authority to bind them. I am, on the whole, fully convinced, that the present situation of affairs in that country, would have never been, and that the people there must and would have returned to their obedience, if the Stamp Act had not been unfortunately repealed.

General *Conway*. I by no means agree with the noble lord in any one argument he has made, or conclusion he has drawn from them. I attribute the very disagreeable situation we are now in to the weakness of our counsels, and to a series of misconduct. The noble lord attributes the present distracted state of that country to the repeal. I believe he has neither fully attended to the immediate effects of that measure, nor to those which have followed from a contrary conduct, or he could never have given such a judgment. The operation of both are known, and I leave the House to judge, which was the healing and which the distracting measure.

Colonel *Barré*. I shall agree with the motion for an address as a mere matter of course, not holding myself engaged to a syllable of its contents. A right hon. gentleman near me (Mr. Dowdeswell) has very fully proved on a former occasion, that our present peace establishment is a ruinous one; and that it eats up that fund which should be appropriated towards relieving our burdens or preparing for a war. I have the most authentic information, however improbable it may appear, that the expence of our military at this moment exceeds that of France. These may be matters well worthy of our consideration in the course of our proceedings. It may induce us to make a very considerable saving in that service.

The motion was then agreed to.

Debates in the Commons on the Boston Port Bill.] March 14. The order of the day being called for, the House was silent for a few minutes, when Mr. Cornwall rose, and moved that the gallery be cleared. This occasioned a vehement debate. Col. *Barré* said, that if the motion was insisted on, the ladies would be obliged to withdraw. Mr. C. Fox was of the same opinion. Mr. Jenkinson contended, if it was proper to shut the gallery on Friday against strangers, it was much more so then. Mr. T. Townshend desired that the standing order might be read, which being complied with, he observed, that it contained no exceptions, for the order recited that all strangers should be taken into custody. Mr. Grenville remarked, that it was easily seen from what quarter the present motion originated, as he could perceive that applications had been making ever since the House met, for the purpose now intended to be carried into execution, though the authors did not chuse to appear publicly in it themselves. The majority of the House did not seem to approve of the motion, when it was first made: but the interference of the Speaker at length turned the scale, and not only the gallery, but all the rooms and avenues leading to it, were cleared about four o'clock. As soon as the House had resumed its former tranquillity, his Majesty's Speech of the 7th instant was read. Upon which,

Lord *North* rose. He said it contained two propositions: the one to enable his Majesty to put an end to the present disturbances in America, the other to secure the just dependence of the colonies on

the crown of Great Britain. His lordship observed, that the present disorders originated in Boston, in the province of Massachusetts Bay; and hoped that the method he should propose to the House would be adopted. He should confine himself particularly to those disturbances which had been created since the 1st of December. He said, that it was impossible for our commerce to be safe, whilst it continued in the harbour of Boston, and it was highly necessary that some port or other should be found for the landing of our merchandize where our laws would give full protection; he therefore hoped that the removal of the Custom-house officers from the town of Boston, would be thought a necessary step; and that the consequence of that would produce one other proposition, which would be, the preventing any shipping from endeavouring to land their wares and merchandize there, by blocking up the use of that harbour; he said he should move for leave to bring in a Bill for those two purposes. He observed, that this was the third time the officers of the customs had been prevented from doing their duty in the harbour of Boston; he thought the inhabitants of the town of Boston deserved punishment: he said, perhaps it may be objected, that some few individuals may suffer on this account who ought not; but where the authority of a town had been, as it were, asleep and inactive, it was no new thing for the whole town to be fined for such neglect: he instanced the city of London in king Charles the second's time, when Dr. Lamb was killed by unknown persons, the city was fined for such; and the case of Edinburgh, in captain Porteous's affair, when a fine was set upon the whole; and also at Glasgow, when the house of Mr. Campbell was pulled down, part of the revenue of that town was sequestered to make good the damage. He observed, that Boston did not stand in so fair a light, as either of the three before mentioned places, for that Boston had been upwards of seven years in riot and confusion, and associations had been held against receiving British merchandize so long ago. He observed that proceedings were openly carried on in the beginning of last November, to the 17th of December, denying the force or efficacy of the laws of this country, to be exerted in the harbour of Boston; that during the above time, there was not the least interposition offered by the inhabitants of the town; that at their public meetings, they

had regularly given orders for nightly watches to be appointed, consisting of a large body of persons, which were to prevent the landing of the tea. As the merchandize of Great Britain, this surely was highly criminal, and a direct opposition to the execution of an act of parliament; and as the tea belonging to the India Company had remained twenty days in the harbour, without a clearance, they were afraid lest it should be seized by the Custom house officers, and by that means landed; they therefore destroyed it on the 20th day. That this appeared to be a violent and outrageous proceeding done to our fellow subjects, by a set of people, who could not, in any shape, claim more than the natural privilege of trading with their fellow-subjects. That Boston had been the ringleader in all riots, and had at all times shewn a desire of seeing the laws of Great Britain attempted in vain, in the colony of Massachusetts Bay. That the act of the mob in destroying the tea, and other proceedings, belonged to the act of the public meeting, and that though other colonies were peaceably and well inclined towards the trade of this country, and the tea would have been landed at New York without any opposition; yet, when the news came from Boston, that the tea was destroyed, governor Tryon, from the advice of the people, thought that the face of things being changed since that account was sent, it would be more prudent to send the tea back to England, than to risk the landing of it. His lordship observed, that Boston alone was to blame for having set this example, therefore Boston ought to be the principal object of our attention for punishment. He proposed one clause in the Bill, which, he said, would prevent the crown from restoring the re-establishment, till full satisfaction was made to the East India Company for the loss of their tea. He said, he did not propose it by way of tax, but by way of restitution to the injured, who were our own subjects; and to let it go forth to the world, that the parliament of Great Britain will protect their subjects and their property; that the crown, by that clause, will not even then be obliged to restore the Custom-house, unless his Majesty is thoroughly convinced that the laws of this country will be better observed in the harbour of Boston for the future; this restitution entirely depended upon Boston alone. He should be happy to have those, who had been the promoters of these disturbances in Boston

found out, and that they might be obliged to make good the damage to the East India Company; but as those persons are unknown to us, Boston will, no doubt, endeavour to find out such persons, or pass acts of their own assembly, to levy such money in the most equitable and just manner. We have only to request it for the East India Company. He said, that this Bill was not all he meant to propose; that other parts, of more nice disquisition, will remain for the future consideration of parliament. There, perhaps, might be other methods proposed that were better than this; but he had as yet found out none that deserved a preference. Some persons had proposed, that the fishery might be taken away; but this, he observed, would affect the colony at large. Others proposed the Streights trade; and this would be liable to the same objection. No method of punishment ever came from him, but with great regret: he therefore hoped for that unanimity in a vote of this sort, which would give strength to the measure. It had been said, that we owed this proceeding of the Americans to our own ill conduct in taxing and repealing; but if gentlemen would recollect, when the Stamp Act passed, there was hardly a dissenting voice; and when it was repealed, it had the consent of a great majority of that House; that the doctrine then laid down, was that external duties were our right, internal taxes theirs; that when the repeal of the Stamp Act took place here, the clamour raised against that Act in America had subsided; that the non-importation agreements, it was true, were not remedied, because they ceased of themselves. It was my fate, he said, to propose the repeal of the duties laid on in 1767, and to continue the tea duty only. The reason was, I thought, the non-importation agreements would break up of themselves; which was afterwards the case. It was proposed by some, that the tea duty should be taken off; it was urged by others, that it would then become a monopoly of the East India Company: nor did I think the giving up the duty to the East India Company of consequence enough to venture the struggle of the legislative authority of this country. If they could sell tea cheaper than any other people, they would certainly have the market to themselves. His lordship observed, that at Boston we were considered as two independent states; but we were

no longer to dispute between legislation and taxation, we were now to consider only whether or not we have any authority there; that it is very clear we have none, if we suffer the property of our subjects to be destroyed. He hoped that all would agree with him, both peers, members, and merchants, to proceed unanimously to punish such parts of America as denied the authority of this country. We must, he said, punish, controul, or yield to them. He did not wish to molest without an offence given; he therefore proposed this measure to day; and observed, if such conduct was followed, it would tend to cement two countries, as important to the one as the other; he therefore moved, "That leave be given to bring in a Bill for the immediate removal of the officers concerned in the collection and management of his Majesty's duties and customs from the town of Boston, in the province of Massachusetts Bay, in North America; and to discontinue the landing and discharging, lading and shipping of goods, wares, and merchandize at the said town of Boston, or within the harbour thereof."

Mr. *Grosvenor* got up to second the motion, and condemned very much the proceedings of Boston; he said, they were all entirely owing to the repeal of the Stamp Act.

Governor *Johnstone* desired to know, if it was to be left to the crown to what part of America the Custom-house should be removed?

Lord *North* said, a clause was intended to be inserted in the Bill to leave that matter to the crown.

Mr. *Dempster* observed, that should this indemnification to the East India Company take place by way of tax, it would be collected over America, and thereby injure the property of people who had been entirely innocent of this affair; that when he spoke formerly so much about taxation in general, he meant not as to the right which we had, but only as to the prudence and policy of the measure.

Mr. *Sawbridge* got up to speak, but the noise of the House being great for the question, he sat down, he said, till gentlemen had done coughing, and the House had done calling for the question; that though he could not be heard now, he should sit coolly till he could. The House being a little silent, he said, he always gave his genuine opinion, and he was now, and always had been, of such opinion, that this country had no right to tax America; that

it might be said by some people here, that America is not represented; that if this country had a right to take a single shilling out of an American's pocket, they have a right to take the whole. He then sat down a second time, the House being noisy, and said, though he could not be allowed to speak long, he could sit long; and observed, that this destruction of the tea was entirely done by a mob unarmed; and that if a requisition was to be sent to Boston to make satisfaction to the India Company, he made no doubt but what it would be complied with. He said, he was against the motion.

Mr. *Byng* said, he only meant to ask the noble lord one question, whether this measure was not preventing the English ships from trading there, and a punishment on ourselves?

Mr. *R. Fuller* said, the Bill brought in would shew whether it was a punishment upon A or B; that he should therefore reserve his opinion until he saw the Bill.

Mr. *Dowdeswell* rose, upon which the House thought the debate would continue; he said, he was of opinion they were going to do very great mischief, and should think it his duty to give that opinion in this early stage of the Bill: he said, this Bill was to punish the town of Boston; why will you punish Boston alone? Did not other towns send your tea back to England, and refuse the landing? Have they committed no offence? He asked, if there was any evidence of a general concurrence of the inhabitants of Boston; he said, the examples of punishment the noble lord had mentioned were not similar to the present case; that the counties being obliged by law to make good the loss between sun and sun, was an old established law, not made for a particular purpose; that this Bill would be an *ex-post-facto* law; that the case of a corporation was different from the present; the corporation chose their own officers, the magistrates of the town of Boston were chosen by the province at large. Would the House not hear what Boston had to say in its defence? Would the House condemn without evidence, in the absence of the parties? He should trouble the House no more at present; he thought they were going to do a wrong act, nor could he think, that the cases of London, Edinburgh, or Glasgow, could at all be brought as examples of punishment in this case. He disapproved much of the Bill, and said, he should give a negative to it.

Mr. *Cavendish* approved of the proposition; but hoped, if the merchants of this country could any way be injured by it, that time would be given them to come and petition.

Captain *Phipps* said, he felt no reason to imagine, that any opposition to the Bill at Boston could be effectual; that it was no new thing to direct and order a port for the reception of the trade of America; that harbours were in great plenty there; that all authority had been trampled upon in that country for many years; that if our subjects could not trade to Boston, they must go where they could trade with safety; that he did not attribute the disturbances to the Stamp Act, or the repeal of it. When he was in that country, he thought that that Act might have been put in execution; that the repeal might be proper. He imagined, one of the provisions that would be adopted by the House, would be to repeal the Declaratory Act, which, he said, was the most absurd and unconstitutional Act ever passed. Let America alone, and it would return of itself to obedience, and do not let us search for trifling taxes, by way of experiment, to try our power; the moment they see that taxation is not for effectually collecting of money, but for experiment only, they will always oppose you.

Lord *G. Cavendish* said, he was not sure but the object before the House would be prejudicial to our trade; that he looked to the mutual interest of the two countries; that they were united by proper measures, and, he hoped, they would be kept so; he wished that no idle ideas of superiority might prevail, for that country which is kept by power, is in danger of being lost every day.

Colonel *Barré* said, he was urged to rise to discharge his duty in not giving a silent vote upon the occasion. The proposition before the House, he could not help giving his hearty affirmative to; that he liked it, harsh as it was; he liked it for its moderation; and argued, that the noble lord's (North) conduct would be of the same stamp throughout. He said, I think Boston ought to be punished, she is your eldest son. [Here the House laughed, and some members observed by him, that he would be a proper person to direct the admission of Irish members into the House, as he had hinted a day before that office for Mr. Rigby.] After the House had laughed heartily, he said, I mean your daughter, she is a noble prop; she gave

[VOL. XVII.]

herself that form of constitution she now has; cherish and support her. He wished to see an unanimous vote in the onset of this business; that when Boston saw this measure was carried by such a consent, they would the more readily pay the sum of money to the India Company.

The Bill was then read the first time.

March 23. The House went into a Committee on the Bill.

Mr. *Fuller* said, he intended to make an alteration in the Bill, by first substituting a fine before the blocking up the port: he should therefore propose, that the words "from and after," be left out, in order to insert one of his own. He said, that Boston was a port of the greatest consequence to this country of any existing; that the Bill before them was totally unprecedented, for that the case of Edinburgh, Glasgow, and others that had been mentioned, was not in the least similar; that the penalty of blocking up their ports was too severe for the first offence; that when the nation came to know the contents of this Bill, he was sure they would be dissatisfied with it; that the Bostonians, upon the first resistance, will tell you they will not remit the money which they owe you; that nothing but confederacies would spring up among them; that he was strongly of opinion, that this Bill could be carried into execution without a military force; that if we sent over a small number of men, the Boston militia would immediately cut them to pieces; that if we sent over a larger number, 6 or 7,000, the Americans would debauch them; and that by these means we should only hurt ourselves. I would begin, said he, by an amercement; nor would I wish this Bill to take place, until they had refused the payment of it. He should apprehend, that about 15,000*l.* would make amends to the East India Company, and would in some measure be a relief to poor Malcolm (the Custom-house officer, who had been tarred and feathered.) It was always a rule in law, he said, where damages are done by unknown persons, that the community should be made to pay; he therefore wished that the House would adopt the proposition he had made.

Mr. *Herbert* opposed the measure which Mr. Fuller proposed. He said, the proposition would by no means relieve us, but throw us into greater difficulties: the Bostonians would certainly resist the payment of the fine; that we must then have

[4 F]

recourse to this method. The measure proposed was still more likely to be resisted than the Bill, because the fine would be laid on all America, which would induce others to join in the opposition, who before were not concerned in it. He said, the Americans were a strange set of people, and that it was in vain to expect any degree of reasoning from them; that instead of making their claim by argument, they always chose to decide the matter by tarring and feathering; that the method now proposed in the Bill would become more a punishment by their refusal than by their compliance; that the Americans alone were the persons by whose behaviour the lenity or severity of the measure was to be proved: he therefore should agree to the Bill, in preference to the amendment proposed.

Lord *North* opposed the amendment. He said, however great his obligations were to the candour and public spirit of the hon. gentleman who made the motion, yet he differed much from him in the amendment proposed. His lordship observed, that though the hon. gentleman had said it was the first offence, yet upon recollection he was very sure he would not be of that opinion, as the people at Boston had begun many years ago to endeavour to throw off all obedience to this country; that, indeed, this was the first time that parliament had proceeded to punish them. He said, I am by no means an enemy to lenient measures, but I find that resolutions of censure and warning will avail nothing; we must therefore proceed to some immediate remedy; now is our time to stand out, to defy them—to proceed with firmness, and without fear; they will never reform until we take a measure of this kind. Let this Bill produce a conviction to all America, that we are in earnest, and that we will proceed with firmness and vigour; that conviction will be lost, if they see us hesitating and doubting. It will be enough to shew that Great Britain is in earnest. The merchandize now will be landed at Marble-head, in the port of Salem, which is putting Boston about seventeen miles from the sea with respect to foreign trade. This restriction will be continued as long as they persist in their proceedings; it will operate severely or mildly against them, according to their behaviour; if they are obstinate, the measure will be severe; if not, mild.—I believe that Boston will not immediately submit to a fine, nor to the intention of the

present Bill, unless it comes attended with a mark of resolution and firmness that we mean to punish them, and assert our right; it is impossible to suppose but some of our own people may in some degree suffer a little, but we must compare those temporary inconveniences with the loss of that country, and its due obedience to us; they bear no comparison; and the preference must certainly be given to the latter. The hon. gentleman tells us, that the Americans will not pay their debts due to this country, unless we comply with their disposition. I believe things will remain much in the same state as they did upon a like occasion; they threatened us with the same thing if we did not repeal the Stamp Act; we repealed that Act, and they did not pay their debts. If this threat is yielded to, we may as well take no remedy at all; their threats will hold equally good to the fine proposed by the hon. gentleman, as to the operation of this Bill. I hope we every one feel, that it is the common cause of us all, and such an unanimity will go half way to their obedience to this Bill. The hon. gentleman tells us, that the Act will be a waste piece of paper, and that an army will be required to put it in execution. The good of this Act is, that four or five frigates will do the business without any military force; but if it is necessary, I should not hesitate a moment to enforce a due obedience to the laws of this country. The situation of the troops in that country has been such, that no magistrate or civil officer of the peace has been willing to call forth their strength on proper occasions: it will become us to find out some method whereby the military force may act with effect, and without bloodshed, in endeavouring to support and maintain the authority of Great Britain; but I hope that this Act will not, in any shape, require a military force to put it in execution: the rest of the colonies will not take fire at the proper punishment inflicted on those who have disobeyed your authority; we shall then be nearly in a situation, that all lenient measures will be at an end if they do: but if we exert ourselves now with firmness and intrepidity, it is the more likely they will submit to our authority. If the consequences of their not obeying this Act are likely to produce rebellion, those consequences belong to them, and not to us: it is not what we have brought on, but what they alone have occasioned; we are only answerable

that our measures are just and equitable. Let us continue to proceed with firmness, justice, and resolution; which, if pursued, will certainly produce that due obedience and respect to the laws of this country, and the security of the trade of its people, which I so ardently wish for.

Mr. *Gascoigne* said, he differed much from the proposition made by Mr. Fuller, as an amendment to the Bill. Will gentlemen consider what sort of acts of assembly the Bostonians have lately passed? They have sent over one law, to be approved of by his Majesty, for the raising and purchasing twelve pieces of brass cannon; these, he said, were to be produced against the present proposition of amendment. Do these proceedings look with a peaceable eye to the proposition of his hon. friend? It is not, says he, the acts of tarring and feathering only that shew their displeasure to persons who have offended them; they have other modes of punishment, which they make use of by way of argument and reason; the house of any person with whom they are displeased, they immediately daub over with excrement and tar, by which means the whole family is obliged to quit it. These people, he was afraid, would hardly ever be brought to reason; for the moment a person offered to argue, the reply was, either tarring, feathering, or daubing the house. The Bill before them now, he apprehended, would bring these tarring and feathering casuists to a little better reason; nor did he imagine that a military force would be in the least necessary: as their meetings were chiefly made up of merchants, the prescribing limitations to their trade would be the only way to bring such merchants to their senses.

Mr. *Montague* (second son of lord Sandwich) rose for the first time in the House. He said, that it was usual to begin by making some sort of apology to the House as a virgin orator; that he should, for the present, wave that custom, but should venture what little he had to say with as much propriety and decency as he was able. He said, he was the youngest member in the House, and therefore might more properly lay his thoughts before the House, in order that they might hereafter be corrected by men more able, and of greater experience: and that he might at last be induced to give his vote at least rectified with some sanction of authority. He expatiated much on the load of debt which this country had incur-

red on obtaining America in Germany; that we had spilt the dearest and best blood we had in the attainment of it; that it had been the result and deliberation of our councils to obtain the possession of it by any means, and at any risk whatsoever; that it had been the darling object of this country, ever since we possessed it, to cherish and nourish it as the main prop and support of the constitutional body of Great Britain; that after all these struggles for the possession of such a jewel in the crown of this country, it would be madness, it would be folly indeed to the last extremity, were we not to pursue the most determined conduct to preserve it; the giving up that gem which we have so carefully and so diligently polished, or neglecting to enforce that due obedience, and cultivate the friendship, would be as it were an actual surrender of all our right and claim. He spoke much upon the indulgence that had been shewn to the colonies by the mother country, and observed, that we had received nothing in return but contempt of government. Was this filial friendship? Was this that debt of gratitude which was owing to this country? Or was this that bond of mutual connection which ought to have subsisted between the mother country and its colonies? He said, he looked upon the unity of legislation to be as essential to the body politic, as the Deity was to religion; that the disorders abroad had entirely been owing to our weak councils at home, and condemned much the same, unmanly proceedings of government towards the Americans. Those acts of the Americans call now loudly for that power and that interposition which has been so long, and with so much danger to this country withheld. Let us now proceed, and consider what it is most prudent to do in the present situation of things, *rebus sic stantibus*. Let us consider whether the Bill before us will not be the most proper method that can be adopted.—The Bill he said, would operate as a restorative and palliative; but if the amendment was adopted, which was proposed by the hon. member, it would indeed produce a punishment, the sting of which Great Britain would in some measure feel. He expatiated also upon gentlemen in that House who had been clamorous against the measures of government with a view to make themselves popular: he termed them a faction, whose very existence had arose merely as it were from the vilest excrement of the earth. He begged pardon

for having detained the House so long; as they had been so kind and indulgent to him in the attention which they shewed, he would conclude with giving his hearty approbation to the Bill, as it bore on its face those distinguishing lines which ought to be the true characteristic of every British minister, moderation and courage.

Mr. *Byng*. I rise, Sir, to speak my mind upon this Bill. Whatever principles I have hitherto adopted, be they right or be they wrong, I have always adhered to; and as I live with such opinions, I hope I shall die in them. Men's characters are known after their death, and to have steadily adopted one uniform set of principles, from which I have not deviated, I hope will not be deemed factious. This Bill will prevent all importation of goods to Boston, and thereby create that association in the Americans which you have so much wished to annihilate. You are not punishing the Bostonians; you are punishing the English merchants. They, Sir, would petition this House; but they might petition it in vain. I am against both the amendment, and the Bill itself; I therefore propose, that after the words, "not to import goods," the words, "except of British merchants" be inserted.

Mr. *Stanley* said, that the place where trade and merchandize could not be landed in safety was not a port; it was therefore proper that some other port should be found out where the subjects of this country might land their merchandize in safety. I think, said he, the Bill which is now before you, as far as it can convey punishment will be unavoidable; something must be done, an immediate remedy must be had, and I think, none can be adopted so free from objection as the Bill before you.

Mr. *Dempster* said, that he knew of no Act to which he gave his hearty consent in a more willing manner, than to that which was for the repeal of the Stamp Act; he said, our disorders had arisen from our attempts to tax the Americans by that odious Act; he was very sure the destruction of America would be certain if we should offer to tax it. Have we not, said he, given an extent of power to his Majesty, to prevent the port of Boston from ever being reinstated if the King should think proper? What limit or line is drawn to define when it will be proper, right, and just, that the port of Boston should be reinstated? He said, the dignity of parliament was by no means con-

cerned in the disputes with our colonies; and that we should treat them as our children, nourish and protect them.

Lord *North* rose to explain. When he mentioned the threats of Boston were not to be depended upon at the repeal of the Stamp Act, he said, he did not mean to rip up wantonly the mention of the repealing the Stamp Act; that he begged to be understood in that light, only to shew, that the threats of Boston, at that time, in not paying their debts, unless the Stamp Act was repealed, were not always to be depended upon.

Mr. *Ward* said, he was surprised to hear that we were not now to tax America; that he was equally surprised not to find that unanimity which he expected upon the present Bill; that he himself was much against the repeal of the Stamp Act; that he had presented four petitions from his constituents in favour of the repeal, but that he, at the same time, told them he must be against them. He approved, he said, of this Bill, because there was no other resource left; that we were drove to the wall. He disapproved, he said, of the amendment.

Mr. *Jenkinson*. I think Great Britain right; I commend much the measure of the Stamp Act, and, as the hon. gentleman (Mr. Grenville) who was the author of that Act, has been much praised and commended for another Bill (the Election Bill), I beg leave to throw in my hearty approbation of my hon. friend for the Stamp Act. What, said he, is to become of all your trade, if the proceedings of the Bostonians are to become a precedent to the rest of the colonies: we have gone into a very expensive war for the attainment of America: the struggle we shall now have to keep it, will be but of little expence.

General *Conway* observed, that the right hon. gentleman who spoke last, had spoken with some degree of warmth, which the present debate, he apprehended, did not at all call for. I will just say one very short word, he said, in favour of the Bill. I am particularly happy in the mode of punishment that is adopted in it, but I disclaim any thing in the debate that tends to call up old sores, or create anger. I was much for the repeal of the Stamp Act, and am not ashamed to own it; nor do I think that that measure was the reason of these disorders.

Mr. *R. Fuller* said, we all agree, that the Bostonians ought to be punished, but

we differ in the mode of it. He did not insist any farther.

The debate ended, and the blanks were filled up in the Bill. It was then read. On the question upon the clause, which vests the power in the crown to restore the port,

Mr. *Charles Fox* said, he should give it his negative, as it was trusting the crown with that power which parliament were afraid to trust themselves with; and if he did not succeed in his negative to this clause, he should object to the clause following, which seemed to militate against the measure adopted in this, as a restraint was there laid upon the crown until the East India Company were made satisfaction. This Bill, he said, was calculated for three purposes; the first for securing the trade, the second for punishing the Bostonians, and the third for satisfaction to the East India Company. He said, the first clause did not give a true and exact distinction by what means, and at what period, the crown was to exercise that power vested in it; he thought that application for relief should come to parliament only, and that the power of such relief should not be lodged in the crown. The quarrel, he said, was with parliament, and parliament was the proper power to end it; not that, said he, (in a kind of sneer) there is any reason to distrust his Majesty's ministers, that they will not restore the port when it shall be proper; but I want to hear the reason why this clause should be so left in the judgment of the crown, and the next clause should be so particularly granted, with such a guard upon his Majesty, to prevent him from restoring the port until the East India Company shall be fully satisfied.

Captain *Phipps* said, that nothing surely was so proper as to allow the crown that power which always had been attributed to it, that of mercy; his Majesty cannot deprive the people of a port without the leave of parliament, but he may certainly give one: as to the power being lodged in the crown, of restoring the port upon proper contrition, it is highly proper, and not in parliament, for parliament may not be sitting at the time when the trade of Boston ought to be restored; that power which has a right to give a port, has also a power of appointing quays and wharfs; if the power was not lodged in the crown, quays and wharfs might be made at places totally inconvenient to the Custom-house officers, and thereby prevent the collection of his Majesty's revenue.

Lord *North*. The test of the Bostonians will not be the indemnification of the East India Company alone, it will remain in the breast of the King not to restore the port until peace and obedience shall be observed in the port of Boston. I am ready to admit a clause to secure those wharfs and quays which are now in use, to be the same when the port shall be restored.—He observed, he had been charged with changing his opinion; that the declaration which he had made tended chiefly to the punishment of the Bostonians, and that the Bill particularly adhered to the views of making the India Company satisfaction. He believed the House would do him the justice to say, that he had declared both those measures to be his intention at the first setting out of the business, as well as to restore the trade to a proper footing; that he hoped he had never deviated from them, notwithstanding what the hon. gentleman (Mr. Fox) had charged him with; that he should never be ashamed, at any time, to give up his opinion upon good grounds; it would be the height of obstinacy not to do it, when he saw any good reasons to guide his opinion to better judgment.

Mr. *Van* said, he agreed to the flagitiousness of the offence in the Americans, and therefore was of opinion, that the town of Boston ought to be knocked about their ears, and destroyed. *Delenda est Carthago*: said he, I am of opinion you will never meet with that proper obedience to the laws of this country, until you have destroyed that nest of locusts.

Colonel *Barré* said, he had very little thoughts of troubling the Committee upon this clause, but for an expression which fell from an hon. gentleman under the gallery, *delenda est Carthago*. I should not have risen, said he, had it not been for those words. The Bill before you is the first vengeful step that you have taken. We ought to go coolly to this business, and not trouble our heads with who passed, or who repealed the Stamp Act, or other taxes. We are to proceed *rebus sic stantibus*. The proposition made ye I thought a moderate one, though I must confess I hate the word fine; it is a tax, and as long as I sit here among you I will oppose the taxing of America. This Bill, I am afraid, draws in the fatal doctrine of submitting to taxation; it is also a doubt by this Bill, whether the port is to be restored to its full extent. Keep your hands out of the pockets of the Americans, and they will

be obedient subjects. I have not a doubt, but a very small part of our strength will, at any time, overpower them. I think this Bill a moderate one; but I augur that the next proposition will be a black one. You have not a loom nor an anvil but what is stamped with America; it is the main prop of your trade. Parliament may fancy that they have rights in theory, which I will answer for, they can never reduce to practice. America employs all your workmen here: nourish and protect it, that they may be supported.

The clauses objected to passed in the affirmative without any division.

March 25. On the motion that the Bill do pass,

Mr. *C. Fox* said, he got up only to make a motion to leave out the two clauses, which, in the committee, he had objected to.

The *Speaker* desired to know if any amendment was intended to be made before he put the question, as such amendment would then more properly come in.

Mr. *Cooper* proposed a small amendment, of inserting after the words November, December, and January, the word "last." The question was then put, that those words that were read, down to the amendment, from the beginning of the clause, should stand part of the Bill; it passed in the affirmative.

Mr. *Fox* made the same objection to the words of the other clause, which also passed in the affirmative. He said, he did it, in order that it might appear on the Journals that somebody did object to them. The question, that this Bill do pass, being again put,

Mr. *Dowdeswell* said, he rose to give his dissent to passing the same into a law; that he had not the least degree of timidity in rising to oppose it; that he always thought the proposition totally unjust and unfair. By the Bill, a person is to understand, that the commerce of all his Majesty's subjects is interrupted; and, said he, I cannot give my assent to it, until I hear the complaints from the different manufacturers of iron, leather, wool, &c. and the merchants of this country, which complaints, I imagine, the hurry of passing this Bill totally prevents. It is not, says he, that any other goods are interrupted in the port of Boston, but those which are charged with a duty from hence. Look to the consequences of this Bill; you are contending for a matter which the

Bostonians will not give up quietly. I remember, said he, when it was held a doctrine in this House, by persons of great and extensive knowledge, that we had no right to tax America. There is now no such opinion; the question was then, "Whether, with the profits which we receive from all our manufactures exported hence, it would be a wise measure to tax America?" What is the reason, said he, that you single out Boston for your particular resentment? Have there been no other towns in America which have disobeyed your orders? Has not Philadelphia, New York, and several other provinces, sent back their tea? Has not the East India Company suffered nearly as much damage from the tea being sent back, as indeed where they have landed it? Charles Town is the only place where they have suffered the tea to be landed; and what have they done? They have put it into a damp cellar, and the whole has become rotten and useless. You find yourselves much at a loss about this Bill, and are hurt, because the innocent are likely to be involved in the same punishment with the guilty. You are now going to censure them, in the same manner as was done in the case of Edinburgh and Glasgow, where the people at large were to suffer for the neglect of their magistrates. There is a great difference between the magistrates of Edinburgh and those of Boston; those at Edinburgh are chosen by the people; those at Boston are not; they are appointed by the council, and the council are elected by the province at large. You are going to appoint a new port, where there are neither sufficient wharfs, quays, or warehouses for carrying on business. You hereby punish the British merchants much more severely than the people of Boston. The folly and childishness of carrying on such a project is certainly very evident. All that you have effected, is to carry your merchandize seventeen miles further from the town of Boston, so that the Bostonians shall be obliged to be at an additional expence in conveying their merchandize from the port of Salem by land. You ask why the Americans do not pay their debts? If you stop the exports, you will of course stop the payment of those debts. Now, Sir, let us consider how this Bill is founded upon principles of justice; if parliament continually passes Bills, sometimes to punish the person, at other times the places, you will, by and by, have your hands fully

employed; you will soon enflame all America, and stir up a contention you will not be able to pacify. The passing this Bill in a week or so, does not give time to the injured persons in America to petition this House for redress. I rejoice, that you have at least had one petition from the natives of America residing in this country: the language of that petition bears the face of a well-written, unanswerable argument; it is no common petition, it is the strong and pathetic language that tells their own feelings, and those of their fellow subjects in America. I wish to hear some arguments offered against what is contained in it, for it will be said, both here and in America, that such reasons and arguments deserve an answer.

Mr. *Welbore Ellis* said, he did not rise to answer the hon. gentleman to the first part of what he advanced, being arguments which had, in a former debate, been urged and sufficiently replied to. He said, this behaviour of the Americans was the most direct opposition to the laws of this country that could possibly be conceived. If this country, said he, has not a right to pass a tax on America, they have no right to pass any law whatsoever relative to it. The present Bill confirms no tax; it enacts none, it imposes none; the tax upon tea was introduced to prevent tea being smuggled into that country. The hon. gentleman (Mr. *Dowdeswell*) has said, this Bill was unjust and unwise. I differ much from him, and think it both just and wise. This Bill makes it expedient for them to do their duty, and puts the Bostonians upon the enquiry to find out who were the parties that committed this riot; the persons or magistrates in the town, not enquiring into the proceedings, are much to blame, and I cannot think this Bill in the least unwise. Can it, Sir, be unwise, unless it is unwise to maintain the authority of this country, and to punish those who have been the aggressors against its laws? The hon. gentleman, he said, had mentioned that others were guilty, and why were they not punished? There is, said he, a different degree of crime in each of them, and some are more to blame than others. It is treason in the Bostonians, and can only be deemed a high crime and misdemeanor in the others; but, in my mind, it appears to be wise, first, to single out Boston as the principal ringleader of the whole disturbance, and begin this punishment there, in order to see what effect the proceedings will have.

Mr. *Edmund Burke*. I trouble you, Sir, in the last stage of this Bill, because I would not appear petulant when my objections run to the whole of it. I never knew any thing that has given me a more heart-felt sorrow than the present measure. This Bill is attempted to be hastened through the House in such a manner, that I can by no means assent to it; it is to be carried by force and threats into execution; and you have even refused to hear Mr. *Bollan*, the agent, declaring him to be no agent for Massachusetts Bay, or not properly authorised by them to present such petition; you have not now one left in England to be heard in behalf of any of the colonies; the only obstruction that this Bill has had, has been owing to its own *vis inertiae*; but persons who oppose this Bill, are immediately put to the same kind of punishment in the public papers which offenders in America are. Look, Sir, into the public papers, you will see *Cinna*, and a thousand other Roman names, throwing out their invectives, and tarring and feathering all those who dare oppose the Bill. I suppose I shall reap my share for this opposition: but, Sir, at all events, I will enter my protest against this Bill, and will mount my little palfrey, and speak of the injustice which the Bill contains with the greatest confidence. The grievance which is stated in the papers before you on the table, appears to be an universal resistance from all America against any goods or merchandize that shall be loaded with taxes.—He desired that that part of general *Haldiman's* letter, declaring the resolution of the Americans not to submit to receive goods with duty upon them, might be read; he read the extract he had made in his place; he said, the whole meeting in the town of Boston consisted of six or seven hundred men of the first rank and opulent fortune in the place; that the proceedings were conducted with the utmost decency. He said, this was not a meeting of mean persons, but that the acts of resistance were all countenanced by universal consent. Observe, said he, that the disturbances are general; shew me one port in all America where the goods have been landed and vended; the distemper is general, but the punishment is local, by way of exchange. Whether it will be effectual or not, I do not know; but, Sir, let me paint to this House the impropriety of a measure like this; it is a remedy of the most uncertain operation; view but the conse-

quence, and you will repent the measure; give orders at once to your admirals to burn and destroy the town; that will be both effectual, proper, and moderate, and of a piece with the rest of your proceedings, *eventus tristis*. One town in proscription, the rest in rebellion, can never be a remedial measure for general disturbances. Have you considered whether you have troops and ships sufficient to enforce an universal proscription to the trade of the whole continent of America? If you have not, the attempt is childish, and the operation fruitless. Only, Sir, see the consequence of blocking up one port; for instance, that of Virginia Bay; which, if you do, you will destroy the tobacco trade, and thereby bring, as it were, a certain ruin on your own merchants at Glasgow and Edinburgh. This Bill has been thought a vigorous, but not a rigorous punishment. It is my opinion that you might even punish the individuals who committed the violence, without involving the innocent: I should approve much of that; but, Sir, to take away the trade from the town of Boston, is surely a severe punishment. Would it not be a rigorous measure to take away the trade of the Thames, for instance, and direct the merchandize to be landed at Gravesend? I call this Bill most unjust, for is it not fundamentally unjust to prevent the parties who have offended from being heard in their defence? Justice, Sir, is not to be measured by geographical lines nor distances. Every man, Sir, is authorised to be a magistrate, to put a stop to disturbances which he perceives to be committed against his Majesty's peace; but did you expect that the people who were not present at such disturbances, would be equally punished for not aiding and assisting in putting an end to those riots which they never saw or heard of? This, Sir, is surely the doctrine of devils, to require men to be present in every part of America wherever a riot happens: but this Bill involves those who have never in the least been guilty; and then you again say, that the disturbances which did happen ought to have been immediately put a stop to by the people of Boston, and that they were bound to preserve the good order of the town; but, Sir, I have too much reverence for the image of God to conceive that the hon. gentleman (Mr. Welbore Ellis) does really and truly imbibe such a doctrine. He then read part of colonel Leslie's letter, No. 45, wherein the colonel said, that nei-

ther the governor, nor the council, nor any of the Custom-house officers, have ever yet applied to me for any assistance; if they had, I could most certainly have put a stop to all their riot and violences, but not without some bloodshed, and firing upon their town, and killing many innocent people. Why, Sir, did not the governor at once send for this assistance? Was it contrary to, or do you think he would have broke through his instructions if he had endeavoured, by such ways and means, to preserve the public peace, and prevent violences from being committed? The fault of this governor ought not to be the means of punishment for the innocent. You have found that there was no government there. Why did not the governor exercise his authority? Why did not the ships execute their duty? What was the reason they did not act? Why is not Mr. Hancock, and the chief people who are known, punished, and not the innocent involved with the guilty in one universal calamity? You, surely, Sir, cannot have power to take away the trade of a port, and call it privilege! Why was not your force that was present applied to quell the disturbances? How came they to be so feeble and inactive? How are you sure that the orders and frigates which you now send will act better? I cannot think this, by any means, a prudent measure, in blocking up one port after another; the consequence will be dreadful, and I am afraid destructive; you will draw a foreign force upon you, perhaps, at a time when you little expect it; I will not say where that will end; I will be silent upon that head, and go no further; but think, I conjure you, of the consequence. Again, Sir, in one of the clauses of the Bill you prescribe the property of the people, to be governed and measured by the will of the crown. This is a ruinous and dangerous principle to adopt. There is an universal discontent throughout all America, from an internal bad government. There are but two ways to govern America; either to make it subservient to all your laws, or to let it govern itself by its own internal policy. I abhor the measure of taxation where it is only for a quarrel, and not for a revenue; a measure that is teasing and irritating without any good effect; but a revision of this question will one day or other come, wherein I hope to give my opinion. But this is the day, then, that you wish to go to war with all America, in order to conciliate that country to this;

and to say that America shall be obedient to all the laws of this country. I wish to see a new regulation and plan of a new legislation in that country, not founded upon your laws and statutes here, but grounded upon the vital principles of English liberty.

Mr. *Grey Cooper* said, he could not agree in the doctrines laid down by the hon. gentleman who spoke last, that the Bill was unjust or unwise; it was, in his opinion, a temperate and prudent law to preserve the trade of this country, and protect the peace of America; he was sorry to find that hon. gentleman in particular should be upbraiding government for not making use of military force; nor should he have expected that such a proposition would have come from him. It has been said that the Americans cannot be heard in their own defence before this measure takes effect. Look at the papers on the table, where you see the resolutions of their public meetings ordered to be sent over here, that we might be acquainted with them. After such a defiance, can it be expected, that they would come over here to be heard, and say any thing at your bar but what they had already told you, and sent to you expressly in the papers on your table, where they refuse a direct obedience to all your laws? It is asked again, Sir, whether the individuals are not to be punished when they are found out? I apprehend, Sir, that this measure by no means excuses the guilty persons from being brought to condign punishment. The Black Act of this country is a similar case with regard to this Bill, where the hundred are fined in the penalty of 200*l.* for not suppressing the offences mentioned in that Act, such as cutting down trees, breaking banks, and other misdemeanors. The whole hundred, in this case, are not present at the commission of the crime, yet they are punished for it; nor does that fine excuse the criminal from being particularly punished where the aggressor can be found out. The Bill before you is a law for the protection of trade; it is a mild measure, if they obey it; if they oppose it, the result of it will only make the punishment. The resolves at Boston I consider as direct issue against the Declaratory Act; they clearly proved a determined resolution in the Americans to oppose every law of this country; but the Bostonians alone have carried into execution what others have only resolved. This Bill, Sir, I look

upon to be the act of a father chastising his son on one line, and restoring the trade and peace of America on the other, and therefore I highly approve of the measure.

Mr. *Anthony Bacon* said there was not a port in New England but what had sufficient warehouses for the reception of all the merchandize of Great Britain.

Governor *Pownall* said, that he had always been of opinion, that internal taxes could not legally be laid, but that he agreed in external ones; that there wanted a revision of the general laws relating to America; he said he wished that the tea duty was repealed, but he did not think this the proper time or season to adopt the measure. There ought also to be a review of the governments; the Americans have a real love for government; they love order and peace (here the House laughed); he said, I do aver that they love peace, for I look upon this to be the act of the mob, and not of the people, and wait but a little it will regulate itself.

The *Lord Advocate* said, the question had been very fully argued, and he should give his hearty affirmative to the Bill.

Lord *John Cavendish* spoke a few words against the Bill, and said, he should give his negative to its passing in its present form.

Mr. *T. Townshend* spoke also against the Bill, and said, he should be against its passing into a law.

Mr. *Sawbridge* said, the offence of destroying the tea was done in the night time, and not *tempore diurno*; that this was an *ex post facto* law, and that the law of the Black Act, which had been mentioned, was not in force before the offence was committed; that as far as that, or any other precedent participated of this law, so far they were most iniquitous; that it was an act of cowardice in the minister to come to parliament to ask for that which had been allowed, and was in the power of the crown to order and direct: he meant, he said, the removal of the Custom-house officers, and other things mentioned in that Act, the preservation of the peace, and the executive authority in that country. All these might have been done by the crown, without applying to parliament, but the minister was timorous of proceeding himself, and wanted to skulk behind the protection of the legislature.

Lord *North* said, he rose to explain himself, and was sorry to commit an offence to the House at that hour of the night, and especially as it would be to the

disturbance of the neighbourhood, who are totally innocent (alluding to the charge that had been made by Mr. Sawbridge, that the innocent people in the town of Boston would suffer equally with the offenders); nor am I, Sir, ashamed, at any time, to take shelter under the legislature. The hon. gentleman says, the minister might do certain things, which are to be enacted in that Bill, without application to parliament, such as changing the Custom-house officers, ordering the peace to be preserved, and a better regulation of internal government to take place; but that they could not block up a port, or make it illegal for the landing, lading, and shipping of goods in any place heretofore granted, without the aid of parliament. I will not undertake to say, what will be the consequence or event of this measure; I am strongly of opinion it will be salutary and effective; but I will say, that it was not in the power of the minister to sit still and take no measure. I believe, Sir, that no prosecution in that country, according to its present form of government, will be effectual; I was therefore much for adopting the measure proposed. It certainly may be right to direct a prosecution against those individuals who may be found offenders; but can the hon. gentleman be of opinion, from what he has seen and read from the papers on the table, that any obedience will be paid to such a prosecution, or that it will be in the least degree effective? This measure will certainly not excuse the individual offenders, any more than the fine upon a county, between sun and sun, will excuse the person who committed the robbery. This is no *ex post facto* law; they committed the offence of destroying the tea, knowing and declaring, at the same time, the law which they offended against. The committee of Boston, Sir, gave the directions for the destruction of the tea, and have declared their resolution of resistance to the obedience of our laws; yet we are desired to hear them; to hear those very persons who have declared to you, and to all the world, that they intended this violence against the law; therefore, it is said, Sir, by some hon. gentlemen in this House, that we ought not to proceed in this measure till we have heard these very people, who are the great offenders, say at your bar, in their defence, that Great Britain has no authority to tax them: they can make no other plea; they can make no other declaration than what they

have already done; but, Sir, we must adopt the measure, let what will be the consequence. I hope and conclude it will be a happy one. Is this then the best measure in the present case? It certainly is: I hear of none other preferable or I would adopt it. It is to tell America, that you are in earnest. If we do not mean totally to give up the matter in question, we must assert our right at this time, while we can, whilst it is in our power. Instead of our treating America like a foreign enemy, America has treated us like one; disavowing our authority, and declaring against all obedience to the laws of Great Britain. We are threatened again, by one hon. gentleman, lest a foreign enemy should, in this emergency, start up—he stopped short, and said he would say no more upon that head. I suppose he meant that this foreign enemy would lay hold of America during our contest. Time of peace, Sir, is the only season for adopting regulations. This is the crisis, then, in which that contest ought to be determined. Another hon. friend of mine is for repealing the tea duty. I am of opinion, Sir, that repealing any measure whatever, at this moment, would stamp us with a degree of timidity, and would produce a totally different effect from what I expect this measure will do.

Governor *Johnstone* rose to speak, but the House being noisy, he said, if the House was not, at that late hour, disposed to hear him, he would sit down; but as I see, says he, such a great majority likely to approve of this Bill, I shall be very cautious in delivering my poor opinion. The poor India Company, Sir, is the butt between America and England. I much advised the directors to desist from exporting tea to America. I foresaw it was a measure that would produce no good effect. We are now asked to adopt this measure before us; but here, Sir, can we give our consent to a Bill of this sort, without knowing what is to follow? I am very certain, that a sort of rebellion will take place upon this measure being known in America. In that country, Sir, the governor is nothing more than a mere cypher; he has no support in any proposition he makes, no places to give away, and yet you blame him for not keeping up his authority. I do not like the latter part of the Bill, which leaves open the undefined damage to the India Company. I think a sum ought to be fixed for the satisfaction of the Americans, that they might know

what they had to depend upon, and what damage to amerce the offenders in. Sir, it would have been full as prejudicial, and full as absurd, if you had passed a Bill to prevent the inhabitants of Middlesex from sowing corn, as it is to prevent the town of Boston from reaping any profit or advantage from their trade and merchandise.

Mr. *Sawbridge* said, he rose again, just to blame the minister for being timid in doing his duty without the authority of parliament. He was very certain, he said, that there were three things in the Bill; that there was this, and this, and this thing, which the minister might have done, without skulking behind the legislative authority for shelter; that indeed the fourth, of stopping up their port, he believed it was proper to apply to parliament for; but he was very certain that this, and this, and this, might have been done without the aid of parliament.

Lord *North*. Sir, I have been formerly blamed for being the only ostensible minister of this country. I am now charged with not coming forth and doing the duty of an acting minister without applying to parliament. I never, Sir, am ashamed to have the sanction and direction of parliament as the rule and guide of my conduct; but, Sir, if I had done as the hon. gentleman who spoke last, wishes me to have done, this, and this, and this, I had done nothing, unless I had come to parliament for that, and that, then the main object, what the hon. gentleman thinks I ought to have come to parliament for, and without that, he allows I should do nothing; but however he may wish me to have done this, and this, and this of my own head as a minister, the hon. gentleman (fond as he is, and always has been of prerogative) would have disagreed to my proceeding, and objected against it.

The Bill was then passed.

Petition of the Americans in London against the Boston Port Bill.] March 25. A Petition of several natives of North America, was presented to the House, and read; setting forth,

“That the petitioners, being natives of his Majesty’s dominions in America, are deeply interested in every proceeding of the House, which touches the life, liberties or property, of any person or persons in the said dominions; and that the petitioners conceive themselves and their fellow-subjects intitled to the rights of natural justice, and to the common law of Eng-

land, as their unalienable birthright; that they apprehend it to be an inviolable rule of natural justice, that no man shall be condemned unheard; and that, according to law, no person or persons can be judged without being called upon to answer, and being permitted to hear, the evidence against them, and to make their defence; and that it is therefore with the deepest sorrow they understand that the House is now about to pass a Bill, to punish with unexampled rigour the town of Boston for a trespass committed by some persons unknown upon the property of the East India Company, without the said town’s being apprized of any accusation brought against them, or having been permitted to hear the evidence, or to make their defence; and that the petitioners conceive such proceedings to be directly repugnant to every principle of law and justice; and that, under such a precedent, no man, or body of men, in America, could enjoy a moment’s security; for if judgment be immediately to follow an accusation against the people of America, supported even by persons notoriously at enmity with them, and accused, unacquainted with the charge, and, from the nature of their situation, utterly incapable of answering and defending themselves, every fence against false accusation will be pulled down, justice will no longer be their shield, nor innocence an exemption from punishment; and representing to the House, that the law in America ministers redress for any injuries sustained there; and they can most truly affirm, that it is administered in that country with as much impartiality as in any other part of his Majesty’s dominions; in proof of this, they appeal to an instance of great notoriety, in which, under every circumstance that could exasperate the people, and disturb the course of justice, captain Preston and his soldiers had a fair trial, and favourable verdict; while the due course of law holds out redress for any injury sustained in America, they apprehend the interposition of parliamentary power to be full of danger, and without any precedent; if the persons who committed this trespass are known, then the East India Company have their remedy against them at law; if they are unknown, the petitioners cannot comprehend by what rule of justice the town can be punished for a civil injury committed by persons not known to belong to them; and the petitioners conceive, that there is not an instance, even in the most arbitrary

times, in which a city was punished by parliamentary authority, without being heard, for a civil offence not committed in their jurisdiction, and without redress having been sought at common law: the cases which they have heard adduced are directly against it; that of the king against the city of London, was for a murder committed within its walls, by its citizens, in open day; but even then, arbitrary as the times were, the trial was public in a court of common law, the party heard, and the law laid down by the judges was, that it was an offence at the common law to suffer such a crime to be committed in a walled town *tempore diurno*, and none of the offenders to be known or indicted; the case of Edinburgh, in which parliament did interpose, was the commission of an atrocious murder within her gates, and aggravated by an overt act of high treason, in executing against the express will of the crown, the king's laws; it is observable, that these cities had, by charter, the whole executive power within themselves; so that a failure of justice necessarily ensued from the connivance; in both cases, however, full time was allowed them to discharge their duty, and they were heard in their defence; but neither has time been allowed in this case; nor is the accused heard; nor is Boston a walled town, nor was the fact committed within it; nor is the executive power in their hands, as it is in those of London and Edinburgh; on the contrary, the governor himself holds that power, and has been advised by his Majesty's council to carry it into execution; if it has been neglected he alone is answerable; if it has been executed, perhaps, at this instant, while punishment is inflicting here on those who have not been legally tried, the due course of law is operating there, to the discovery and prosecution of the real offenders; and the petitioners think themselves bound to declare to the House, that they apprehend, a proceeding of excessive rigour and injustice will sink deep in the minds of their countrymen, and tend to alienate their affections from this country; and that the attachment of America cannot survive the justice of Great Britain; and that, if they see a different mode of trial established for them, and for the people of this country, a mode which violates the sacred principles of natural justice, it must be productive of national distrust, and extinguish those filial feelings of respect and affection which have hi-

therto attached them to the parent state; urged therefore by every motive of affection to both countries, by the most earnest desire, not only to preserve their own rights, and those of their countrymen, but to prevent the dissolution of that love, harmony, and confidence, between the two countries, which was their mutual blessing and support; beseech this House not to pass the Bill."

Ordered to lie on the table.

Debate in the Commons on the Bill for regulating the Government of Massachusetts Bay.] March 28. The order of the day being read for the House to go into a committee to take into further consideration his Majesty's Message, and the American papers, the House immediately resolved itself into the said committee, sir Charles Whitworth in the chair.

Lord North rose and said, he meant now to open the plan of the Bill which he proposed to bring in; and as it might very well be understood by gentlemen in that House, from the papers relating to America that then laid before them, that an executive power was wanting in that country, and that it was highly necessary to strengthen the magistracy of it; that the force of the civil power consisted in the *posse comitatus*; and when it is considered, said his lordship, that the *posse* are the very people who have committed all these riots, little obedience to the preservation of the peace is to be expected from them. There appears to be a total defect in the constitutional power throughout. If the democratic part shews that contempt of obedience to the laws, how is the governor to execute any authority vested in him? If he wants any magistrate to act, whom he knows will be willing to execute the laws, he has not the power of appointing one, nor of removing one that will not act; the council have alone that power, whose dependence is on the democratic part of the constitution. It appears that the civil magistrate has been, for a series of years, uniformly inactive; there is something radically wrong in that constitution, in which no magistrate, for such a number of years, has ever done his duty in such a manner as to force obedience to the laws. If the governor issued a proclamation, there was hardly found a magistrate to obey it; the governor, of his own authority, can do nothing; he cannot act, or give out any order, without seven of the council consenting; the authority of that government is

in so forlorn a situation, that no governor can act; and, where there is such a want of civil authority, can it be supposed that the military, be they ever so numerous, can be of the least service? For I shall always consider that a military power, acting under the authority and controul of a civil magistrate, is part of the constitution; but the military alone ought not, and cannot act without the controul of the civil magistrate. How was it possible for the military to maintain good government when they were not called upon by the civil authority? I propose, in this Bill, to take the executive power from the hands of the democratic part of government; I would propose, that the governor should act as a justice of peace, and that he should have the power to appoint the officers throughout the whole civil authority, such as the sheriffs, provost, marshal, &c.—the chief justice and judges of the supreme court excepted. I would have them only removable by his Majesty, under his sign manual, and upon good representations made here. Every gentleman will naturally see the impropriety of such irregular assemblies, or town-meetings, which are now held in Boston; I would have them brought under some regulation, and would not suffer them to be held without the consent of the governor, unless upon the annual election of certain officers, which it is their province to chuse. Their juries are improperly chosen; I think a degree of regulation highly necessary; I am always ready and open to hear those matters discussed, and inclined to alter my opinion, when I hear better reasons for adopting any other mode of putting the civil magistracy of that country upon a good footing; but until the executive power is free, it cannot act; our regulations here are of no import, if you have nobody in that country to give them force. Some immediate, as well as permanent remedy, must be adopted. I therefore propose the present Bill, which I apprehend will effectually purge that constitution of all its crudities, and give a degree of strength and spirit to the civil magistracy, and to the executive power. I therefore move you, Sir, “That leave be given to bring in a Bill for the better regulating the government of the province of Massachusetts Bay.” I propose that this Bill shall be brought in, and lie upon the table, for the inspection of the House and gentlemen who wish to make the propriety of such a Bill the measure of their conduct.

Mr. *Byng* said, that he could not be at all surprised at hearing that the governor of Boston had no power, when he had not a single place in his gift. It was now become a fashion, he said, to give away those places of emolument to men of this country, with reversions to one, two, or three sons; to men who had never been of the least public service to this country in his apprehensions (meaning Mr. Bradshaw). Whilst places continue to be given away to men of this country, the emoluments of which arise from the labour and sweat of an American brow, it will undoubtedly, and very properly, totally annihilate the power of any supreme officer in that country. Men look up to their superiors, and obey their directions according to the emoluments received from them; and when once there is no dependance in it, there will be no obedience.

Sir *F. Norton* (Speaker) said, he only got up to know, whether there was to be an assembly left to the Americans, or not? For he was not able to say, from what he had heard from the noble lord, whether the assembly was to be annihilated or not.

Lord *North* assured the right member, that there would be nothing in this Bill that affected either the assembly or the council in their legislative power.

Mr. *Stephen Fox*. Can there be any thing so necessary to alter as that government which can neither govern nor manage itself? The people of Boston have behaved in a most outrageous manner, militating against every principle of law and justice, combating against its own constitutional power, and totally subverting every idea of order and regularity. Would you let these men go on in that chaos of disturbance? Would you wish them to proceed so precipitately to their destruction without once lending the aid of your deliberations to rescue them from the self-conceived and false opinions which they have imbibed. I hope, Sir, this House will lend its advice, and endeavour to save these hot-headed Americans, not by violent measures, but by firm and manly proceedings.

Lord *George Germain*. It may not be improper, Sir, I hope, to throw out a little upon this occasion, and to ask for further information, to know whether this is to be the extent of the proposition with regard to the salutary measures that are to be made and taken in this Committee, during this whole session; if so, Sir, I should be glad to give my poor opinion, and add my

mite of preservation to that country. I could have wished that the noble lord, when he was forming this scheme of salvation to this country, would have, at least, considered that there were other parts of the internal government necessary to be put under some regulation. I mean particularly the internal government of the province of Massachusetts Bay. I wish to see the council of that country on the same footing as other colonies. There is a degree of absurdity, at present, in the election of the council. I cannot, Sir, disagree with the noble lord, nor can I think he will do a better thing, than to put an end to their town meetings. I would not have men of a mercantile cast every day collecting themselves together, and debating about political matters; I would have them follow their occupations as merchants, and not consider themselves as ministers of that country. I would also wish, that all corporate powers might be given to certain people in every town, in the same manner that corporations are formed here; I should then expect to see some subordination, some authority and order. I do not know by what power those are to be formed, but I wish that they may be formed by some. Again, Sir, I think that the method of grand juries ought to be much attended to: they are now chosen for life, and have a yearly salary, and these are the men to whom your life and property is entrusted. Your people know to whom to make application, when law and justice are wished to be subverted by favour and affection. Your petty juries are elected annually, so many persons in each town; to these men offenders know how to apply; and when any riot happens between the military power and the people of the town, the jury, being taken principally out of that town, the power of life and death of the offender is lodged in those who are offended. These juries, I think, require great regulation: they are totally different from ours, and, in my idea, carry with them not only the highest degree of absurdity, but are subject to be led aside to commit the highest and most palpable enormities against justice and the laws of the land. I would not wish to protract the noble lord's Bill, by lengthening it out to a degree which he does not wish it to go, nor to oppose the measures which he has already adopted. I would wish to bring the constitution of America as similar to our own as possible. I would wish to see the council

of that country similar to a House of Lords in this. I would wish to see chancery suits determined by a court of chancery, and not by the assembly of that province. At present, their assembly is a downright clog upon all the proceedings of the governor, and the council are continually thwarting and opposing any proposition he may make for the security and welfare of that government. You have, Sir, no government, no governor, the whole are the proceedings of a tumultuous and riotous rabble, who ought, if they had the least prudence, to follow their mercantile employment, and not trouble themselves with politics and government, which they do not understand. We are told by some gentlemen, Oh! do not break the charter; do not take away their rights that are granted to them by the predecessors of the crown; whoever, Sir, wishes to preserve such charters, without a due correction and regulation; whoever, Sir, wishes for such subjects, I wish them no worse than to govern them. Put this people, Sir, upon a free footing of government; do not let us be every day asserting our rights by words, and they denying our authority and preventing the execution of our laws. Let us, Sir, persevere in refining that government which cannot support itself, and proceed on in the manner we have begun, and I make no doubt but, by a manly and steady perseverance, things may be restored from a state of anarchy and confusion, to peace, quietude, and a due obedience to the laws of this country.

Lord North. I thank the noble lord for every proposition he has held out; they are worthy of a great mind, and such as ought to be adopted; and indeed I cannot say, that at present there is any objection to what is proposed being regulated at some future period; if any thing can tend to the relief of the present distresses in America, it is the unanimity of this House, and of men of such abilities as the noble lord, in the projection of measures necessary to be taken. Every proposition the noble lord has mentioned coincides with my mind; I see the propriety of them, and I would wish to adopt them. It is not my proposition to close this committee before other measures may be offered, which, for any thing I know, may have a degree of preference to those I have this day proposed. I, for my part, Sir, shall think of the propositions made, and receive them to be canvassed by greater wisdom and abilities than mine. I am

clear, with the noble lord, that the constitution of this charter ought not to prevent parliament from interfering to regulate those matters in America, which the indigested measures of their charter have, perhaps, precipitately been, in some degree, a means of preventing the peace and quietness of that country from being restored.

Mr. *Pownall* used much the same kind of arguments he had done in the former debates, and gave a judicious account of the government of America. He concluded with giving to the Americans the character of a conscientious, good, religious, peaceable set of people, and said that there was not in all his Majesty's dominions a more respectable set of persons existing.

Leave was then given to bring in the Bill.

April 15. Lord North presented to the House the said Bill; the breviat of which was read, containing the propositions which, in moving for the Bill, he had mentioned as the ground of it, with this addition and alteration, "that the nomination of the council should be by the crown." He said, in this Bill there would be no negative voice in the council; nor was the lieutenant governor and secretary to be of the council, unless nominated by his Majesty; that the council would have much the same power as before, except the nomination of judicial officers; that he had altered the mode of chusing of juries, from the hints that were thrown out the other day in the debate by a noble lord (George Germain); that the principle on which our juries were formed seemed to be highly approved of, and that of the juries of America disapproved of; that he had now adopted the mode of choice as near the method of chusing the juries in England as possible; that this was a regulation of a very nice kind; and if gentlemen did not like to have it made part of the present Bill, it might be separated and made a Bill of itself.

Mr. *R. Fuller* gave notice, that he intended to move for a Committee to enquire into the Tea duty on Thursday next, to see whether or not it was possible to repeal that Act before the present one took place.

Mr. *Dempster* desired to ask the noble lord, by whom the governors and judges were appointed formerly, and by whom paid?

Lord North said, the judges were paid by the crown; and that their salaries were

to accrue out of the duties chargeable on the tea.

Mr. *Dowdeswell* said, he was unwilling to let the day pass without some observations on the Bill, as it was brought in upon a different plan to what it was moved. He observed, that government had now received sufficient advice for regulating their conduct, and coming to some decision about what was proper to be done; but the further they went the worse they were; that the House had now a Bill before them, which was calculated to destroy the charter of the province of Massachusetts Bay; that, if indeed we were now to make a new charter for governing and regulating the number of emigrants that are daily going to America, we should, perhaps, make it in a different manner, and suit it more to the disposition of the times: but I wish, said he, to see no new charter granted. The Americans have laboured with unwearied industry, and flourished for near fourscore years under that democratic charter; they have increased their possessions, and improved their lands to a pitch we could not have expected, and we have reaped the benefit of their labour, yet you are now going to destroy that very charter which has subsisted to the mutual benefit of both countries; the charter which they have breathes a spirit of liberty superior to any thing either of the former or present times. It was granted in king William's time, and is more adapted to the spirit of a free people, than any charter that can possibly be framed by any minister now; but, I hope, before this Bill passes, that you will, at least, recollect yourselves in a cool, dispassionate manner, and look upon Americans as your children, and call them by whatever name you will, rebellious or disobedient, that you will consider at the same time, that they are forward children, that there are also peevish parents, and that the ill humour and disposition of a child is oftentimes brought about by the petulant obstinacy of a foolish parent. The ridiculous doctrine that parents are apt to instil into their children, of "you shall do it—you shall do it," is oftentimes the means of enforcing the same disposition in the child, of "I won't." I hate that absurd obstinacy, of "you shall," and "I won't," between parent and child. You are not now contending for a point of honour; you are struggling to obtain a most ridiculous superiority, to which I hardly know a

name bad enough to stamp it with. The regulations which you are going to enact, will be so inadequate and so improper a remedy, that in my opinion it would be better to give up the whole, than to correct in such a violent and imprudent manner; let me at least advise temper in your proceedings, and that whatever is done, may not be effected with rigour and severity.

Governor *Pownall* rose to give the House an account of the mode in which juries were chosen in America; the House at first did not much attend, but his extensive knowledge in American affairs, soon drew that attention to what he said, which his abilities so justly deserved. He gave an account in what manner the council were chosen heretofore; that they were elected by the whole legislature, and not (as had been mistakenly represented) by the people at large; that the select men were a kind of aldermen, much the same as those in corporations in England; that about forty were chosen in each town, after which the remaining ones were generally appointed as persons proper to serve upon juries, from which five or six people were taken, as occasion required; that the grand juries were struck off from capital men, who were appointed for that purpose. He said great inconvenience would arise from the town meetings not being held without the consent of the governor; that all business of a municipal nature was done at a town meeting; that these towns were, in many places, 300 miles from the capital, and that business must stand still in many instances, in these towns, till the governor's consent could be obtained. He concluded with expressing a wish that the laws of the province of Massachusetts Bay, as far as related to the present Bill, might be laid before the House.

The Bill was then read a first time.

Debate in the Commons on the Bill for the impartial Administration of Justice in Massachusetts Bay.] The House then resolved itself into a Committee, to consider further of his Majesty's Message, relating to America; sir Charles Whitworth in the chair. The papers which he had that day presented, were then read. When the reading of these papers was finished,

Lord *North* rose, and said, he meant now to propose a third Bill, which he hoped would effectually secure the province

of Massachusetts Bay from future disturbances. The Bill that he meant to propose was, to give every man a fair and impartial trial; that the juries of that country, it was true, were not established after the manner in which our juries here were, and therefore were not so likely to give to each offender that impartial trial, which, by the laws of this country, he was entitled to; for if it shall be found in that country, that a man is not likely to meet with a fair and impartial trial, the governor will be empowered to send him to any of the other colonies, where the same kind of spirit has not prevailed; but if it shall be thought that he cannot have such fair and impartial trial in any of the colonies, in that case he is to be sent to Great Britain to be tried before the court of King's bench, the expences of which trial were to be drawn for on the customs in England. Unless such a Bill as this now proposed should pass into a law, the executive power will be unwilling to act, thinking they will not have a fair trial without it. I would not, said his lordship, wish to see the least doubt or imperfection remain in the plan which we have adopted: if there does, the consequence may be that it may produce bloodshed: that the whole plan may be clear and decisive; that every part of it may be properly supported; and I trust that such a measure as this, which we have now taken, will shew to that country, that this nation is roused to defend their rights, and protect the security of peace in its colonies; and when roused, that the measures which they take are not cruel nor vindictive, but necessary and efficacious. Temporary distress requires temporary relief; I shall therefore only propose this Bill for the limited time of three or four years. We must consider, that every thing that we have that is valuable to us is now at stake; and the question is very shortly this: Whether they shall continue the subjects of Great Britain or not? This I propose as the last measure that parliament will take; after which, it requires, that his Majesty's servants shall be vigilant in the execution of their duty, and keep a watchful eye over every encroachment against the power we shall now pass, and not suffer the least degree of disobedience to our measures to take place in that country. Such a watchful and careful eye to prevent the first rise of disobedience, may be a sure preventive against future mischiefs. The customary relief of troops that is ordered

for that country, is ordered, in the first place, to Boston, four regiments being the usual relief. Governor Hutchinson comes home, and his Majesty has appointed general Gage as commander and governor in chief; a man whose great abilities, and extensive knowledge of that country, will give him a superior advantage, and his occasional residence there will prevent him from shewing any impolitic partiality to the Americans, and thereby enforce a due observance of those measures which we have taken, and shall send out. There is one thing I much wish, which is, the punishment of those individuals who have been the ringleaders and forerunners of these mischiefs. Our attention will be continually active in that point. A prosecution has been already ordered against them by his Majesty's servants, but I cannot promise myself any very good effect until this law shall have reached the province. We must particularly guard against any illegal or ineffectual proceedings, or else, after all our trouble, we shall find ourselves at last in the same dilemma we were in at first. We must observe a perfect innocence, and a conscientious avoidance of the breach of any laws. His Majesty's servants, I make no doubt, will be thoroughly watchful against such breach, nor will they at any time proceed upon slight grounds. They have the happiness to be assisted by the ablest lawyers, who have both great resolution and abilities; and guarded by such outlines, I make no doubt, that the spirit of disobedience, which has hitherto unfortunately prevailed, will be tempered and brought to reason by a due observance of those measures which we have now taken, and, I trust, will secure to us the blessings of peace, radicating out of the boiling disturbances and violent spirit of opposition in that country. When those measures are pursued with that resolution, and those abilities which I have mentioned, I doubt not the event will be advantageous to this country. I have no more, Sir, to add, but with permission will make the motion, "That the chairman be directed to move the House, that leave be given to bring in a Bill for the impartial administration of justice, in the cases of persons questioned for any acts done by them in the execution of the laws, or for the suppression of the riots and tumults in the province of Massachusetts Bay, in New England."

Colonel *Barré*. I rise, Sir, with great unwillingness to oppose this measure in its
[VOL. XVII.]

very infancy, before its features are well formed, or to claim that attention which this House seems to bestow with so much reluctance on any arguments in behalf of America. But I must call you to witness that I have been hitherto silent, or acquiescing, to an unexpected degree of moderation. While your proceedings, severe as they were, had the least colour of foundation in justice, I desisted from opposing them; nay more—though your Bill for stopping up the port of Boston contained in it many things most cruel, unwarrantable, and unjust, yet as they were couched under those general principles of justice, retribution for injury, and compensation for loss sustained, I not only desisted from opposing, but assented to its passing. The Bill was a bad way of doing what was right; but still it was doing what was right. I would not therefore, by opposing it, seem to countenance those violences which had been committed abroad; and of which no man disapproves more than I do.

Upon the present question I am totally unprepared. The motion itself bears no sort of resemblance to what was formerly announced. The noble lord and his friends have had every advantage of preparation. They have reconnoitred the field, and chosen their ground. To attack them in these circumstances may, perhaps, favour more of the gallantry of a soldier than of the wisdom of the senator.

But, Sir, the proposition is so glaring; so unprecedented in any former proceedings of parliament; so unwarranted by any delay, denial, or perversion of justice in America; so big with misery and oppression to that country, and with danger to this—that the first blush of it is sufficient to alarm and rouse me to opposition.

It is proposed to stigmatize a whole people as persecutors of innocence, and men incapable of doing justice; yet you have not a single fact on which to ground that imputation. I expected the noble lord would have supported this motion by producing instances of the officers of government in America having been prosecuted with unremitting vengeance, and brought to cruel and dishonourable deaths by the violence and injustice of American juries. But he has not produced one such instance; and I will tell you more, Sir,—he cannot produce one. The instances which have happened are directly in the teeth of his proposition. Captain Preston and the soldiers, who shed the blood of the people,

were fairly tried, and fully acquitted. It was an American jury, a New England jury, a Boston jury, which tried and acquitted them. Captain Preston has, under his hand, publicly declared, that the inhabitants of the very town in which their fellow-citizens had been sacrificed, were his advocates and defenders. Is this the return you make them? is this the encouragement you give them to persevere in so laudable a spirit of justice and moderation? When a commissioner of the customs, aided by a number of ruffians, assaulted the celebrated Mr. Otis in the midst of the town of Boston, and with the most barbarous violence almost murdered him, did the mob, which is said to rule that town, take vengeance on the perpetrators of this inhuman outrage against a person who is supposed to be their demagogue? No, Sir, the law tried them; the law gave heavy damages against them; which the irreparably injured Mr. Otis most generously forgave upon an acknowledgement of the offence. Can you expect any more such instances of magnanimity under the principle of the Bill now proposed?

But the noble lord says, "We must now shew the Americans that we will no longer sit quiet under their insults." Sir, I am sorry to say that this is declamation, unbecoming the character and place of him who utters it. In what moment have you been quiet? Has not your government for many years past been a series of irritating and offensive measures, without policy, principle, or moderation? Have not your troops and your ships made a vain and insulting parade in their streets and in their harbours? It has seemed to be your study to irritate and inflame them. You have stimulated discontent into disaffection, and you are now goading that disaffection into rebellion. Can you expect to be well informed when you listen only to partizans? Can you expect to do justice when you will not hear the accused?

Let us consider, Sir, the precedents which are offered to warrant this proceeding—the suspension of the Habeas Corpus Act in 1745—the making smugglers triable in Middlesex, and the Scotch rebels in England. Sir, the first was done upon the most pressing necessity, *flagrante bello*, with a dangerous rebellion in the very heart of the kingdom; the second, you well know, was warranted by the most evident facts; armed bodies of smugglers marched publicly without presentment or

molestation from the people of the county of Sussex; who, even to their magistrates, were notoriously connected with them. They murdered the officers of the revenue, engaged your troops, and openly violated the laws. Experience convinced you, that the juries of that, and of the counties similarly circumstanced, would never find such criminals guilty; and upon the conviction of this necessity you passed the Act. The same necessity justified the trying Scotch rebels in England. Rebellion had reared its dangerous standard in Scotland, and the principles of it had so universally tainted that people, that it was manifestly in vain to expect justice from them against their countrymen. But in America, not a single act of rebellion has been committed. Let the crown law officers, who sit by the noble lord, declare, if they can, that there is upon your table a single evidence of treason or rebellion in America. They know, Sir, there is not one, and yet are proceeding as if there were a thousand.

Having thus proved, Sir, that the proposed Bill is without precedent, to support and without facts to warrant it; let us now view the consequences it is like to produce. A soldier feels himself so much above the rest of mankind, that the strict hand of the civil power is necessary to controul the haughtiness of disposition which such superiority inspires. You know, Sir, what constant care is taken in this country to remind the military that they are under the restraint of the civil power. In America their superiority is felt still greater. Remove the check of the law, as this Bill intends, and what insolence, what outrage may you not expect? Every passion that is pernicious to society will be let loose upon a people unaccustomed to licentiousness and intemperance. On the one hand will be a people who have been long complaining of oppression, and see in the soldiery those who are to enforce it upon them; on the other, an army studiously prepossessed with the idea of that people being rebellious, unawed by the apprehension of civil controul, and actuated by that arbitrary spirit which prevails even among the best of troops. In this situation the prudent officer will find it impossible to restrain his soldiers, or prevent that provocation which will rouse the tamest people to resistance. The inevitable consequence will be, that you will produce the rebellion you pretend to obviate.

I have been bred a soldier; have served

long. I respect the profession, and live in the strictest habits of friendship with a great many officers; but there is not a country gentleman of you all, who looks upon the army with a more jealous eye, or would more strenuously resist the setting them above the controul of the civil power. No man is to be trusted in such a situation. It is not the fault of the soldier, but the vice of human nature, which, unbridled by law, becomes insolent and licentious, wantonly violates the peace of society, and tramples upon the rights of human kind.

With respect to those gentlemen who are destined to this service, they are much to be pitied. It is a service, which an officer of feeling and of worth must enter upon with infinite reluctance. A service, in which his only merit must be, to bear much, and do little. With the melancholy prospect before him of commencing a civil war, and embruing his hands in the blood of his fellow subjects, his feelings, his life, his honour are hazarded, without a possibility of any equivalent or compensation. You may perhaps think a law, founded upon this motion, will be his protection. I am mistaken if it will. Who is to execute it? He must be a bold man indeed who makes the attempt. If the people are so exasperated, that it is unsafe to bring the man who has injured them to trial, let the governor who withdraws him from justice look to himself. The people will not endure it; they would no longer deserve the reputation of being descended from the loins of Englishmen, if they did endure it.

When I stand up as an advocate for America, I feel myself the firmest friend of this country. We stand upon the commerce of America. Alienate your colonies, and you will subvert the foundation of your riches and your strength. Let the banners of rebellion be once spread in America, and you are an undone people. You are urging this desperate, this destructive issue. You are urging it with such violence, and by measures tending so manifestly to that fatal point, that, but that a state of madness only could inspire such an intention, it would appear to be your deliberate purpose. In assenting to your late Bill I resisted the violence of America, at the hazard of my popularity there. I now resist your phrenzy at the same risk here. You have changed your ground. You are becoming the aggressors, and offering the last of human outrages to the people

of America, by subjecting them, in effect, to military execution. I know the vast superiority of your disciplined troops over the provincials; but beware how you supply the want of discipline by desperation. Instead of sending them the olive branch, you have sent the naked sword. By the olive branch I mean a repeal of all the late laws, fruitless to you, and oppressive to them.

Ask their aid in a constitutional manner, and they will give it to the utmost of their ability. They never yet refused it, when properly required. Your Journals bear the recorded acknowledgments of the zeal with which they have contributed to the general necessities of the state. What madness is it that prompts you to attempt obtaining that by force which you may more certainly procure by requisition? They may be flattered into any thing, but they are too much like yourselves to be driven. Have some indulgence for your own likeness; respect their sturdy English virtue; retract your odious exertions of authority, and remember that the first step towards making them contribute to your wants, is to reconcile them to your government.

Mr. Solicitor General *Wedderburn*. I take this Bill to be nothing more than conveying a general security to all persons whatsoever, as well as the military. It is necessary there should be a reform of the laws, and a proper security under such magisterial authority. The Americans do not attack the law, otherwise than attacking the legislature that made it. It is not this nor that law that is particularly disagreeable to them; they say, no laws shall be put in force there; you say, all laws shall. A singular case may happen of not meeting with that fair trial which is expected; this Bill will be a remedy for it; it is a temporary relief for the limited space of three years. They have, in that country, an unwillingness to obey all magistrates, who have authority from this country, acting under its laws; nay, they even dispute the commission, and may not allow the appointment; a trial, in such a case, would certainly be doubtful. The revenue law gives the power of trial in another country; this case is a direct precedent of that impartial trial at which you want to come; for if you cannot have it in one county, you must remove and strive to find it in another. No man will deny me the doctrine, that such fair trial ought and must be had. It is now no longer a

question of expediency, it is a question of necessity; and it will be found necessary, at all events, to break into their charters, if you mean to produce that subordination which you are seeking; but I hope, and firmly wish, that even the idea of your authority being known to them, will at once prevent the exertion of it. I agree with the hon. gentleman, that the olive branch ought to go in one hand, but the sword should be carried in the other. Peace will be established upon proper principles, when there is a power to enforce it; and your authority once established, I would then drop the point of the sword, and make use of the olive branch, as far and as much as possible. I could very easily tell the colour of all which has already happened in America, and the ground from which it arose; but I stop short, hoping that when they see and know that you have both courage and firmness to proceed in your plan, it will prevent even the exertion of this necessary measure. I would not have them be too confident in our weakness and irresolution, but adopt the measure of reformation, as arising and occasioned by our firmness and courage in the exertion of those powers which are entrusted to us for the preservation of the peace of our colonies.

Captain *Phipps*. I commend much, and am glad to hear of, the appointment of general Gage. I think his abilities and knowledge of the people of that country will sufficiently ensure to him their affections, and be a means of inducing them to obey those measures which are to be executed under his direction; and as much approve of the removal of one of the worst, one of the most exceptionable servants the crown ever had, I mean governor Hutchinson. I wish to see the Bill before us without the trial by jury, for I always apprehended that the advantage of such trial was from the vicinage, and by men who knew the circumstances, as well as the characters of the offenders; nor do I wish to see men sent to England to be tried. These men in America are all brought up to mercantile business, and I do not know any recompence or satisfaction whatever that can be made to a man for the loss of his time in coming here and going back. I wish much for unanimity, because I think it would add a chief support to our measures; but I think it impossible to send a man from America to be tried here, when we are three thousand miles asunder. It would be better that

America and England were separated entirely, than to offer to bring men here to be tried. I wish this Bill to go on without that trial by jury. I wish much also the removal of governor Barnard, because he was the first man who opposed a revenue law. He did it upon the same principle as a smuggler does, because he would lose by it. If this Bill goes on in its present form, it will extort from me that opinion in my vote of affirmative, which I am unwilling to give.

Mr. *T. Townshend*. I cannot, Sir, agree with my hon. friend, in approving of the removal of governor Hutchinson. The Bill is one of those measures to which I can easily give my consent, as, I think, it contains a security that the lives of innocent men may be safe. I approve much of the appointment of general Gage; and as I do not find that the troops are with him, I must express a wish, that they may be able to arrive time enough to prevent a riot, sooner than to quell one, and to let America see we do not want to quarrel with them upon mere punctilio; do not let us, for God's sake, when we have asserted our authority to all that we wish to do, and enforced that obedience, continue that little paltry duty upon tea; let us, then, nobly lay aside those little, teasing, irritating measures, having once gained the grand point of peace and submission to our laws.

Mr. *Dowdeswell*. I am the last man to entertain prejudices against juries. I revere and honour the institution. I rejoice also that governor Hutchinson is removed, because he has not acted as he ought to do, either towards this country or America.

Lord *Carmarthen*. I do not mean, Sir, to trouble the House long, but I hope I am justified, by the importance of the question, in delivering my sentiments. Great Britain neither can nor ought to sit silent, and behold the riots and disturbances that have been committed in America; committed, I say, by a people sent out from this country, as it were from our own bowels; to see these men disobey the laws and precepts of Great Britain, and to sit tamely, and take no notice, would be insipid conduct, highly unworthy the British legislature. For what purpose were they suffered to go to that country, unless the profit of their labour should return to their masters here? I think the policy of colonization is highly culpable, if the advantages of it should not redound to the

interests of Great Britain. I cannot see this Act in any other light, than as giving that same degree of relief to every subject in America, in the same manner as it gives protection and security to the military; I shall therefore give it my affirmative, and hope, upon some future day, to express my further sentiments upon that part relating to the trial by juries.

Lord North. I rise once more to wipe off the aspersion that has been thrown upon governor Hutchinson, and I am much surprised to find that it was the sentiment of even one gentleman in this House, that the removal of governor Hutchinson was considered as part of the merit of this measure. I do not know a man who has a greater share of merit; nor did I ever hear any charge brought against him. He was shamefully abandoned in the execution of his duty, by those who ought to have supported him. Governor Hutchinson had before this affair desired and obtained leave to come home. A ship is now arrived at Bristol, in which he had taken a passage, but as the government of the province, in those disturbed times, would have fallen into the hands of the council in his absence, in case of the death of the lieutenant governor, who was then very ill, he chose rather to adhere to his duty, and stay in that country, to endeavour to quiet those alarming disturbances. This surely, Sir, was acting the part of a faithful servant of the crown; I would only tell the House, that governor Hutchinson is not recalled home upon account of any misconduct; and that he is not here at present is certainly a mark of his duty, and deserves the thanks of this assembly.

Captain Phipps rose to explain, and said, that he did not blame governor Hutchinson for his conduct without reason, which he would give to the House; he thought him culpable upon two occasions, the one for suffering his son to be appointed a consignee of the tea, and the other for setting at defiance the assembly. I think him also highly blameable (says he) for not acting without his council. Here seems to be in him a pretended mildness, and a determined prepossession of irritation.

General Conway. We ought not, Sir, I think, to dive into people's characters; the more important business requires our serious consideration; the measure that is now before you is full of difficulties; it has given a serious turn to his Majesty's

ministers; and this Bill is the produce of many laboured hours, which we may felicitate ourselves upon. I shall not give my opinion now. I am for this plan, and for giving it its due consideration, though I am apt to think that this measure will have no other tendency than a distrust of the Americans. I am a friend to America. There must be a kind of connection with Great Britain, which is necessary for the carrying on the measures of government. Let us preserve temper in our proceedings. The Americans have obeyed the laws, except that of taxation; and I should be glad to hear how this olive branch, that is so much talked of, is to go out. Nothing less than non-taxation, in my opinion, can be the olive branch; if the system of taxation is to be maintained, I am sure it will give trouble enough; but if his Majesty's ministers have the least thoughts of putting an end to the taxation, let them adopt it now at once, and it will put an end to every thing.

Mr. Van. I do not rise to give the House much trouble, but just to make one observation upon what an hon. gentleman has said; that if we will not tax that country, they will return to their duty. I do most heartily agree with him; I believe they will; but if they oppose the measures of government that are now sent out, I would do as was done of old, in the time of ancient Britons, I would burn and set fire to all their woods, and leave their country open, to prevent that protection they now have; and if we are likely to lose that country, I think it better lost by our own soldiers, than wrested from us by our rebellious children.

Leave was then given to bring in the Bill.

Debate in the Commons on a Motion for the Repeal of the American Tea Duty Act.] April 19. Mr. Rose Fuller made the motion of which he had given notice, relative to the repeal of the Tea Duty. He opened it with declaring, that the Boston Port Bill, and the other regulations, would be totally ineffectual without repealing the Tea Duty Bill. He said, he was very sure that the motion would be productive of a great deal of good; and that it could not possibly do harm. He spoke much to the temper and feelings of the House; and the arguments which he used served rather to point out the former considerations which the House had had upon this question, and that the subject of tax-

ation of America was no new matter. After a short opening, he concluded by making the following motion: "That this House will, on this day sevensnight, resolve itself into a committee of the whole House, to take into consideration the duty of 3*d.* per pound weight upon tea, payable in all his Majesty's dominions in America, imposed by an Act made in the 7th year of his present Majesty, intituled, 'An Act for granting certain duties in the British colonies and plantations in America, for allowing a drawback of the duties of customs upon the exportation from this kingdom of coffee and cocoa nuts, of the produce of the said colonies or plantations, for discontinuing the drawbacks payable on China earthen ware exported to America; and for more effectually preventing the clandestine running of goods in the said colonies and plantations.'"

Mr. *Pennant* seconded the motion, and said, he wished much it might go to a committee, because he thought the principle upon which the Bill was established, as set forth in the preamble, was unjust and impolitic; that it changed the nature of their constitution, and it took away the power which had always been held sacred to an Englishman, that of levying their own money; that it was similar to raising the Ship-money in king Charles's time; that those who condemned that measure must of course condemn this, the one being as arbitrary and unconstitutional as the other. He said, he subscribed to the supremacy of parliament, but he thought there was a plain method for raising by requisition the money which we wanted; that the people of that country would be better able to ascertain how, and in what manner the same ought to be raised, on account of the local circumstances which might attend it. The people of Boston would be the first victims to our resentment; repeal this Bill, said he, and you will meet with support from the rest of the colonies.

Mr. *Rice*. This, Sir, is a motion upon the plan of reconciliation, and there is no man would go further than myself to correct any thing that I thought would be the means of bringing about such reconciliation; but I cannot concur in any thing that endangers the supremacy of parliament. Let us but consider the consequence of such a repeal at this present time. Whenever we have made the least concession, they have always required more; they will think that we acknow-

ledge that we have no right, if we should repeal this law. The objection has hitherto been made on the ground of taxation. I will consider truly what that ground is; but I very much fear that they object to that controul which may be improper to take off; they submitted to external taxation, to internal they always objected. I will take that period, then, as the fixed æra for their allowing taxation, by the repeal of the Stamp Act, as an internal tax. If you repeal this Act, you will allow that you have no right. I desire to keep my stand here, and not to give up that authority which I am clear in. I wish no new taxes to take place, but I wish to keep the right and controul, which if you give up, you part with all. The interest of America is the interest of Great Britain, and I would wish to make their happiness the object, and to do that which would be satisfactory to their minds; but, in this present case, I am greatly afraid if you give up this, you will be required to give up much more.

Captain *Phipps*. I should be the last person in the House to give trouble, if the importance of this question did not urge me to it; but I cannot take the acts of the province of Massachusetts Bay to be the opinion of all America, nor those of a few designing interested men in Boston, to be the disposition of the whole province at large. I perfectly agree that the Americans cannot resist, and that the doctrine of supremacy is good; but I think the Americans have a real security in parliament, which is, that you can do nothing that does not affect Great Britain equally with America. I will consider the present measure as an act with which they cannot comply, or, more properly, they will not. In the light, then, of a mercantile tax, it is trifling and ridiculous; as a matter of revenue, it is absurd. If they cannot resist, they will find some means of avoiding it. God and nature has given them an extensive coast, and of course an opportunity of smuggling. You will injure the manufactures of this country in a very high degree; I do not mean by their non-importation agreements, but by making them prefer the manufacture which is worse than yours, from your enemies, to those of this country, which is better. May the right long remain in the expediency of not exercising it! I would only have it called for at particular times, when the emergency of affairs requires it, and when the whole of Great Britain and

America are to receive equal benefit; but if you exercise that right when you have no occasion or urgent reason for raising a revenue, you will throw the quiet man of that country into the factious man. But how can you expect an obedience of that country, when the emoluments of it are taken from them to supply the luxuries of men who live in this? The province of Virginia, before lord Botetourt was made governor, was annually plundered of 5,000*l.* per annum, by the non-residence of former governors. I knew a person in that country who held eleven offices, the emoluments of which were appropriated to the support of men of bad description in this. I approved much of the Stamp Act, as a necessary measure to destroy that nest of small petty-fogging attornies, whose business it was to create disturbances and law suits, and live by the plunder. There is a wide difference between giving up a right and exercising it, but I cannot see that parliament in fact gives up that right, when they say it is not expedient to exercise it. I therefore wish much for the repeal of this Act, which I think you will one day or other be forced to do.

Mr. Stephen Fox. I rise, Sir, much in favour of the motion on your table; and I think the only reason that has been urged against it, is, that America cannot resist. Do not, Sir, let us exercise such a conduct merely to shew our power. I am far from saying we ought not to exert this power upon proper occasions, but to make use of it by way of irritation, is to me the highest ill policy, as well as absurdity; I shall therefore give my hearty affirmative to the motion.

Mr. Cornwall. I wish gentlemen would take into consideration the justice of their former proceedings, and the policy and expediency which the present times require and occasion. I do not love entering into the long debates which have formerly happened upon this business; I think it wrong, and wish only to pursue the present expediency of the measure. The proposition which we are now called upon to decide, is simply this: Whether the whole of our authority over the Americans shall be taken away? It has been said, we have irritated the Americans by taxes that are neither for the purpose of revenue, nor for commercial regulations. That tax will be found to produce much more than gentlemen think; and however little it may produce, the taking it off at

this time would be both impolitic and imprudent. Much has also been said about gaining the affections of the Americans. If this were a new question, I should think the gaining of their affections is worth a thousand times the produce of the tea duty. It is true, Sir, that England is loaded with a debt of a very considerable amount, on account of the last American war; and it is but just and right that they should bear their proportion of expence. Gentlemen say, that the proposition should have been made to them by way of requisition. If I saw or apprehended the least inclination from them to assist us in any other mode as to taxation, I would readily give up this particular tax; but has any one offered any thing on this head? Has any person been authorised to treat; or any ambassador sent on that occasion? I would meet them half way in this proposition. It has been said, that all their labours are centered in this country, and that we should injure ourselves by laying this tax. I look upon the interest of this country to be so nearly connected with that, that our own actions will be the guide of their security. America does not meet you on the mode of taxation, but upon the question of right; and, for my part, I cannot comprehend the distinction between internal and external taxation. You repealed the Stamp Act: did America then receive this boon of repeal cheerfully? Disturbances have been fomenting and growing ever since. Some few years past you repealed three or four of these taxes; I wish much the debate on this question had then been agitated. The question now is, Whether it is prudent to repeal this tax at this critical juncture? The Americans say, restore us to the same situation we were in before the Stamp Act passed. Suppose we do, we put them in a worse situation than they are now in. The consumer of a pound of tea before that Act took place paid twelve-pence, by this Act he pays only three-pence, the consumer therefore certainly gains nine-pence by every pound he uses. This tax upon tea is certainly not uncommercial, because tea is much cheaper now than before; and therefore I think it cannot have any aspect of grievance as a commercial tax. What, then, are we to expect, if we shew such a pusillanimous timidity in repealing this tax, merely because they object to it? On the question of right, they will certainly consider us in a more contemptuous light than they ever yet did. Let me ask

what answer will they give, when, after this, the Americans shall voluntarily apply to repeal the duty on wine, &c.? The same principle that operates for the repeal of this, will go to that. I do not see what answer you can give, nor where the complaint is likely to stop, until you have given up the whole; and by that means America itself. If you persist in the measures you have begun with, I think there is not a doubt of your succeeding, and of becoming, if I may use the word, victorious; but I would have this victory obtained by a firm, consistent, just, and manly conduct. I do not see what line of discrimination you can draw; for many parts of America have, in a measure, disobeyed the precepts of this country, and behaved much in the same manner as Boston. It has been said, and it is a doctrine I readily agree to, that you ought to twine the olive branch round the sword; but if, Sir, they will return to their duty as they ought to do, the sword will have no edge. Let us not give way to false conceits, or factious proceedings; be calm, and persist in a just conduct. Deep as our debt is on account of America, you will be deprived of a fourth part of the revenue, in the day when the system of taxation will be found necessary for carrying on the supplies of war, and the exigencies of government: and when business must be stopt, without some resource of supply, there will not then be found two voices about taxing America.

Mr. Cornwall's reflections on the repeal of the Stamp Act, and on the conduct of the Rockingham administration, called up Mr. Edmund Burke; who, on this occasion, is allowed to have excelled himself, and to have made one of the most masterly speeches that was ever uttered in a public assembly.

Mr. *Edmund Burke* spoke as follows:*

Sir; I agree with the hon. gentleman who spoke last, that this subject is

* From the original edition, printed for J. Dodsley in Pall-Mall, to which is prefixed the following

PREFACE.

"The following Speech has been much the subject of conversation; and the desire of having it printed was last summer very general. The means of gratifying the public curiosity were obligingly furnished from the notes of some gentlemen, members of the last parliament.

"This piece has been for some months ready for the press. But a delicacy, possibly over scrupulous, has delayed the publication to

not new in this House. Very disagreeably to this House, very unfortunately to this nation, and to the peace and prosperity of this whole empire, no topic has been more familiar to us. For nine long years, session after session, we have been lashed round and round this miserable circle of occasional arguments and temporary expedients. I am sure our heads must turn, and our stomachs nauseate with them. We have had them in every shape; we have looked at them in every point of view. Invention is exhausted; reason is fatigued; experience has given judgment; but obstinacy is not yet conquered.

The hon. gentleman has made one endeavour more to diversify the form of this disgusting argument. He has thrown out a speech composed almost entirely of challenges. — Challenges are serious things; and as he is a man of prudence as well as resolution, I dare say he has very well weighed those challenges before he delivered them. I had long the happiness to sit at the same side of the House, and to agree with the hon. gentleman on all the American questions. My sentiments, I am sure, are well known to him; and I thought I had been perfectly acquainted with his. Though I find myself mistaken, he will still permit me to use the privilege of an old friendship; he will permit me to apply myself to the House under the sanction of his authority; and, on the various grounds he has measured out, to submit to you the poor opinions which I have

this time. The friends of administration have been used to attribute a great deal of the opposition to their measures in America to the writings published in England. The editor of this Speech kept it back, until all the measures of government have had their full operation, and can be no longer affected, if ever they could have been affected, by any publication.

"Most readers will recollect the uncommon pains taken at the beginning of the last session of the last parliament, and indeed during the whole course of it, to asperse the characters, and decry the measures, of those who were supposed to be friends to America; in order to weaken the effect of their opposition to the acts of rigour then preparing against the colonies. This Speech contains a full refutation of the charges against that party with which Mr. Burke has all along acted. In doing this, he has taken a review of the effects of all the schemes which have been successively adopted in the government of the plantations. The subject is interesting; the matters of information various, and important; and the publication at this time, the editor hopes, will not be thought unseasonable."

formed, upon a matter of importance enough to demand the fullest consideration I could bestow upon it.

He has stated to the House two grounds of deliberation; one narrow and simple, and merely confined to the question on your paper: the other more large and more complicated; comprehending the whole series of the parliamentary proceedings with regard to America, their causes, and their consequences. With regard to the latter ground, he states it as useless, and thinks it may be even dangerous, to enter into so extensive a field of enquiry. Yet, to my surprize, he had hardly laid down this restrictive proposition, to which his authority would have given so much weight, when directly, and with the same authority, he condemns it; and declares it absolutely necessary to enter into the most ample historical detail. His zeal has thrown him a little out of his usual accuracy. In this perplexity what shall we do, Sir, who are willing to submit to the law he gives us? He has reprobated in one part of his speech the rule he had laid down for debate in the other; and, after narrowing the ground for all those who are to speak after him, he takes an excursion himself, as unbounded as the subject and the extent of his great abilities.

Sir, when I cannot obey all his laws, I will do the best I can. I will endeavour to obey such of them as have the sanction of his example; and to stick to that rule, which, though not consistent with the other, is the most rational. He was certainly in the right when he took the matter largely. I cannot prevail on myself to agree with him in his censure of his own conduct. It is not, he will give me leave to say, either useless or dangerous. He asserts, that retrospect is not wise; and the proper, the only proper, subject of enquiry is, "not how we got into this difficulty, but how we are to get out of it." In other words, we are, according to him, to consult our invention, and to reject our experience. The mode of deliberation he recommends is diametrically opposite to every rule of reason, and every principle of good sense established amongst mankind. For, that sense and that reason, I have always understood, absolutely to prescribe, whenever we are involved in difficulties from the measures we have pursued, that we should take a strict review of those measures, in order to correct our errors if they should be corrigible; or at least to avoid a dull uniformity in mis-

chief, and the unpitied calamity of being repeatedly caught in the same snare.

Sir, I will freely follow the hon. gentleman in his historical discussion, without the least management for men or measures, further than as they shall seem to me to deserve it. But before I go into that large consideration, because I would omit nothing that can give the House satisfaction, I wish to tread the narrow ground to which alone the hon. gentleman, in one part of his speech, has so strictly confined us.

He desires to know whether, if we were to repeal this tax agreeably to the proposition of the honourable gentleman who made the motion, the Americans would not take post on this concession, in order to make a new attack on the next body of taxes; and whether they would not call for a repeal of the duty on wine as loudly as they do now for the repeal of the duty on tea? Sir, I can give no security on this subject. But I will do all that I can, and all that can be fairly demanded. To the *experience* which the hon. gentleman reprobates in one instant, and reverts to in the next; to that experience, without the least wavering or hesitation on my part, I steadily appeal; and would to God there was no other arbiter to decide on the vote with which the House is to conclude this day!

When parliament repealed the Stamp Act in the year 1766, I affirm, first, that the Americans did *not* in consequence of this measure call upon you to give up the former parliamentary revenue which subsisted in that country; or even any one of the articles which compose it. I affirm also, that when, departing from the maxims of that repeal, you revived the scheme of taxation, and thereby filled the minds of the colonists with new jealousy, and all sorts of apprehensions, then it was that they quarrelled with the old taxes, as well as the new; then it was, and not till then, that they questioned all the parts of your legislative power; and by the battery of such questions have shaken the solid structure of this empire to its deepest foundations.

Of those two propositions I shall, before I have done, give such convincing, such damning proof, that however the contrary may be whispered in circles, or bawled in news-papers, they never more will dare to raise their voices in this House. I speak with great confidence. I have reason for it. The ministers are with me. *They at*

least are convinced that the repeal of the Stamp Act had not, and that no repeal can have, the consequences which the hon. gentleman who defends their measures is so much alarmed at. To their conduct, I refer him for a conclusive answer to his objection. I carry my proof irresistibly into the very body of both ministry and parliament; not on any general reasoning growing out of collateral matter, but on the conduct of the hon. gentleman's ministerial friends on the new revenue itself.

The Act of 1767, which grants this tea duty, sets forth in its preamble, that it was expedient to raise a revenue in America, for the support of the civil government there, as well as for purposes still more extensive. To this support the Act assigns six branches of duties. About two years after this Act passed, the ministry, I mean the present ministry, thought it expedient to repeal five of the duties, and to leave (for reasons best known to themselves) only the sixth standing. Suppose any person, at the time of that repeal, had thus addressed the minister,* "Condemning as you do, the repeal of the Stamp Act, why do you venture to repeal the duties upon glass, paper, and painters' colours? Let your pretence for the repeal be what it will, are you not thoroughly convinced, that your concessions will produce, not satisfaction, but insolence in the Americans; and that the giving up these taxes will necessitate the giving up of all the rest?" This objection was as palpable then as it is now; and it was as good for preserving the five duties as for retaining the sixth. Besides the minister will recollect, that the repeal of the Stamp Act had but just preceded his repeal; and the ill policy of that measure (had it been so impolitic as it has been represented), and the mischiefs it produced, were quite recent. Upon the principles therefore of the hon. gentleman, upon the principles of the minister himself, the minister has nothing at all to answer. He stands condemned by himself, and by all his associates old and new, as a destroyer, in the first trust of finance, of the revenues; and in the first rank of honour, as a betrayer of the dignity of his country.

Most men, especially great men, do not always know their well-wishers. I come to rescue that noble lord out of the hands of those he calls his friends; and even out

of his own. I will do him the justice, he is denied at home. He has not been this wicked or imprudent man. He knew that a repeal had no tendency to produce the mischiefs which give so much alarm to his honourable friend. His work was not bad in its principle, but imperfect in its execution; and the motion on your paper presses him only to complete a proper plan, which, by some unfortunate and unaccountable error, he had left unfinished.

I hope, Sir, the hon. gentleman who spoke last, is thoroughly satisfied, and satisfied out of the proceedings of ministry on their own favourite Act, that his fears from a repeal are groundless. If he is not, I leave him, and the noble lord who sits by him, to settle the matter, as well as they can, together; for if the repeal of American taxes destroys all our government in America—He is the man!—and he is the worst of all the repealers, because he is the last.

But I hear it rung continually in my ears, now and formerly,—“the preamble! what will become of the preamble, if you repeal this tax?”—I am sorry to be compelled so often to expose the calamities and disgraces of parliament. The preamble of this law, standing as it now stands, has the lie direct given to it by the provisional part of the Act; if that can be called provisional which makes no provision. I should be afraid to express myself in this manner, especially in the face of such a formidable array of ability as is now drawn up before me, composed of the ancient household troops of that side of the House, and the new recruits from this, if the matter were not clear and indisputable. Nothing but truth could give me this firmness; but plain truth and clear evidence can be beat down by no ability. The Clerk will be so good as to turn to the Act, and to read this favourite preamble:

“Whereas it is expedient that a revenue should be raised in your Majesty's dominions in America, for making a more certain and adequate provision for defraying the charge of the administration of justice, and support of civil government, in such provinces where it shall be found necessary; and towards further defraying the expences of defending, protecting, and securing the said dominions.”

You have heard this pompous performance. Now where is the revenue which is to do all these mighty things?

* Lord North, then Chancellor of the Exchequer.

Five sixths repealed—abandoned—sunk—gone—lost for ever. Does the poor solitary tea duty support the purposes of this preamble? Is not the supply there stated as effectually abandoned as if the tea duty had perished in the general wreck? Here, Mr. Speaker, is a precious mockery—a preamble without an act—taxes granted in order to be repealed—and the reasons of the grant still carefully kept up! This is raising a revenue in America! This is preserving dignity in England! If you repeal this tax in compliance with the motion, I readily admit that you lose this fair preamble. Estimate your loss in it. The object of the Act is gone already; and all you suffer is the purging the statute-book of the opprobrium of an empty, absurd, and false recital.

It has been said again and again, that the five taxes were repealed on commercial principles. It is so said in the paper in my hand;* a paper which I constantly carry about; which I have often used, and shall often use again. What is got by this paltry pretence of commercial principles I know not; for, if your government in America is destroyed by the *repeal of taxes*, it is of no consequence upon what ideas the repeal is grounded. Repeal this tax too upon commercial principles if you please. These principles will serve as well now as they did formerly. But you know that, either your objection to a repeal from these supposed consequences has no validity, or that this pretence never could remove it. This commercial motive never was believed by any man, either in America, which this Letter is meant to soothe, or in England, which it is meant to deceive. It was impossible it should. Because every man, in the least acquainted with the detail of commerce, must know, that several of the articles on which the tax was repealed were fitter objects of duties than almost any other articles that could possibly be chosen; without comparison more so, than the tea that was left taxed; as infinitely less liable to be eluded by contraband. The tax upon red and white lead was of this nature. You have, in this kingdom, an advantage in lead, that amounts to a monopoly. When you find yourself in this situation of advantage, you sometimes venture to tax

even your own export. You did so, soon after the last war; when, upon this principle, you ventured to impose a duty on coals. In all the articles of American contraband trade, who ever heard of the smuggling of red lead, and white lead? You might, therefore, well enough, without danger of contraband, and without injury to commerce (if this were the whole consideration) have taxed these commodities. The same may be said of glass. Besides, some of the things taxed were so trivial, that the loss of the objects themselves and their utter annihilation out of American commerce, would have been comparatively as nothing. But is the article of tea such an object in the trade of England, as not to be felt, or felt but slightly, like white lead, and red lead, and painters' colours? tea is an object of far other importance. Tea is perhaps the most important object, taking it with its necessary connections, of any in the mighty circle of our commerce. If commercial principles had been the true motives to the repeal, or had they been at all attended to, tea would have been the last article we should have left taxed for a subject of controversy.

Sir, it is not a pleasant consideration; but nothing in the world can read so awful and so instructive a lesson, as the conduct of ministry in this business, upon the mischief of not having large and liberal ideas in the management of great affairs. Never have the servants of the state looked at the whole of your complicated interests in one connected view. They have taken things, by bits and scraps, some at one time and one pretence, and some at another, just as they pressed, without any sort of regard to their relations or dependencies. They never had any kind of system, right or wrong; but only invented occasionally some miserable tale for the day, in order meanly to sneak out of difficulties, into which they had proudly strutted. And they were put to all these shifts and devices, full of meanness and full of mischief, in order to pilfer piecemeal a repeal of an Act, which they had not the generous courage, when they found and felt their error, honourably and fairly to disclaim. By such management, by the irresistible operation of feeble councils, so paltry a sum as 3*d.* in the eyes of a financier, so insignificant an article as tea in the eyes of a philosopher, have shaken the pillars of a commercial empire that circled the whole globe.

* Lord Hillsborough's Circular Letter to the Governors of the Colonies concerning the Repeal of some of the Duties laid in the Act of 1767.

Do you forget that, in the very last year, you stood on the precipice of general bankruptcy? Your danger was indeed great. You were distressed in the affairs of the East India Company; and you well know what sort of things are involved in the comprehensive energy of that significant appellation. I am not called upon to enlarge to you on that danger, which you thought proper yourselves to aggravate, and to display to the world with all the parade of indiscreet declamation. The monopoly of the most lucrative trades, and the possession of imperial revenues, had brought you to the verge of beggary and ruin. Such was your representation, such in some measure, was your case. The vent of ten millions of pounds of this commodity, now locked up by the operation of an injudicious tax, and rotting in the warehouses of the Company, would have prevented all this distress, and all that series of desperate measures which you thought yourselves obliged to take in consequence of it. America would have furnished that vent, which no other part of the world can furnish but America; where tea is next to a necessary of life; and where the demand grows upon the supply. I hope our dear-bought East India committees have done us at least so much good, as to let us know, that without a more extensive sale of that article our East India revenues and acquisitions can have no certain connection with this country. It is through the American trade of tea that your East India conquests are to be prevented from crushing you with their burthen. They are ponderous indeed; and they must have that great country to lean upon, or they tumble upon your head. It is the same folly that has lost you at once the benefit of the West and of the East. This folly has thrown open folding-doors to contraband; and will be the means of giving the profits of the trade of your colonies, to every nation but yourselves. Never did a people suffer so much for the empty words of a preamble. It must be given up. For on what principle does it stand? This famous revenue stands, at this hour, on all the debate, as a description of revenue not as yet known in all the comprehensive (but too comprehensive!) vocabulary of finance—a *preambutary tax*. It is indeed a tax of sophistry, a tax of pedantry, a tax of disputation, a tax of war and rebellion, a tax for any thing but benefit to the imposers, or satisfaction to the subject.

Well! but whatever it is, gentlemen will force the colonists to take the teas. You will force them? has seven years struggle been yet able to force them? O but it seems “we are in the right.—The tax is trifling—in effect it is rather an exoneration than an imposition; three-fourths of the duty formerly payable on teas exported to America is taken off: the place of collection is only shifted; instead of the retention of a shilling from the draw-back here, it is three-pence custom paid in America.” All this, Sir, is very true. But this is the very folly and mischief of the Act. Incredible as it may seem, you know, that you have deliberately thrown away a large duty which you held secure and quiet in your hands, for the vain hope of getting one three-fourths less, through every hazard, through certain litigation, and possibly through war.

The manner of proceeding in the duties on paper and glass imposed by the same Act, was exactly in the same spirit. There are heavy excises on those articles when used in England. On export these excises are drawn back. But instead of withholding the draw-back, which might have been done, with ease, without charge, without possibility of smuggling; and instead of applying the money (money already in your hands) according to your pleasure, you began your operations in finance by flinging away your revenue; you allowed the whole draw-back on export, and then you charged the duty, which you had before discharged,) payable in the colonies; where it was certain the collection would devour it to the bone; if any revenue were ever suffered to be collected at all. One spirit pervades and animates the whole mass.

Could any thing be a subject of more just alarm to America, than to see you go out of the plain high road of finance, and give up your most certain revenues and your clearest interests, merely for the sake of insulting your colonies? No man ever doubted that the commodity of tea could bear an imposition of three-pence. But no commodity will bear three-pence, or will bear a penny, when the general feelings of men are irritated, and two millions of people are resolved not to pay. The feelings of the colonies were formerly the feelings of Great Britain. Theirs were formerly the feelings of Mr. Hampden when called upon for the payment of 20s. Would 20s. have ruined Mr. Hampden's

fortune? No! but the payment of half 20s., on the principle it was demanded, would have made him a slave. It is the weight of that preamble, of which you are so fond, and not the weight of the duty, that the Americans are unable and unwilling to bear.

It is then, Sir, upon the *principle* of this measure, and nothing else, that we are at issue. It is a principle of political expediency. Your Act of 1767 asserts, that it is expedient to raise a revenue in America; your Act of 1769, which takes away that revenue, contradicts the Act of 1767; and, by something much stronger than words, asserts, that it is not expedient. It is a reflexion upon your wisdom to persist in a solemn parliamentary declaration of the expediency of any object, for which, at the same time, you make no sort of provision. And pray, Sir, let not this circumstance escape you; it is very material; that the preamble of this Act, which we wish to repeal, is not *declaratory of a right*, as some gentlemen seem to argue it; it is only a recital of the *expediency* of a certain exercise of a right supposed already to have been asserted; an exercise you are now contending for by ways and means, which you confess, though they were obeyed, to be utterly insufficient for their purpose. You are therefore at this moment in the awkward situation of fighting for a phantom; a quiddity; a thing that wants, not only a substance, but even a name; for a thing, which is neither abstract right, nor profitable enjoyment.

They tell you, Sir, that your dignity is tied to it. I know not how it happens, but this dignity of yours is a terrible incumbrance to you; for it has of late been ever at war with your interest, your equity and every idea of your policy. Shew the thing you contend for to be reason; shew it to be common sense; shew it to be the means of attaining some useful end; and then I am content to allow it what dignity you please. But what dignity is derived from the perseverance in absurdity is more than ever I could discern. The hon. gentleman has said well—indeed, in most of his *general* observations I agree with him—he says, that this subject does not stand as it did formerly. Oh, certainly not! every hour you continue on this ill-chosen ground, your difficulties thicken on you; and therefore my conclusion is, remove from a bad position as quickly as you can. The disgrace, and the necessity of yielding,

both of them, grow upon you every hour of your delay.

But will you repeal the Act, says the hon. gentleman, at this instant when America is in open resistance to your authority, and that you have just revived your system of taxation? He thinks he has driven us into a corner. But thus pent up, I am content to meet him; because I enter the lists supported by my old authority, his new friends, the ministers themselves. The hon. gentleman remembers, that about five years ago as great disturbances as the present prevailed in America on account of the new taxes. The ministers represented these disturbances as treasonable; and this House thought proper, on that representation, to make a famous address for a revival, and for a new application of a statute of Henry 8. We besought the King, in that well-considered Address*, to inquire into treasons, and to bring the supposed traitors from America to Great Britain for trial. His Majesty was pleased graciously to promise a compliance with our request. All the attempts from this side of the House to resist these violences, and to bring about a repeal, were treated with the utmost scorn. An apprehension of the very consequences now stated by the hon. gentleman, was then given as a reason for shutting the door against all hope of such an alteration. And so strong was the spirit for supporting the new taxes, that the session concluded with the following remarkable declaration. After stating the vigorous measures which had been pursued, the Speech from the throne proceeds:

“You have assured me of your firm support in the prosecution of them. Nothing, in my opinion, could be more likely to enable the well-disposed among my subjects in that part of the world, effectually to discourage and defeat the designs of the factious and seditious, than the hearty concurrence of every branch of the legislature, in maintaining the execution of the laws in every part of my dominions.”

After this no man dreamt that a repeal under this ministry could possibly take place. The hon. gentleman knows as well as I, that the idea was utterly exploded by those who sway the House. This speech was made on the 9th day of May, 1769. Five days after this speech,

* See vol. 16, p. 479.

that is, on the 13th of the same month, the public Circular Letter, a part of which I am going to read to you, was written by lord Hillsborough, secretary of state for the colonies. After reciting the substance of the King's Speech, he goes on thus:

"I can take upon me to assure you, notwithstanding insinuations to the contrary, from men with factious and seditious views, that his Majesty's present administration have at no time entertained a design to propose to parliament to lay any further taxes upon America, for the purpose of raising a revenue; and that it is at present their intention to propose, the next session of parliament, to take off the duties upon glass, paper, and colours, upon consideration of such duties having been laid contrary to the true principles of commerce.

"These have always been, and still are, the sentiments of his Majesty's present servants; and by which their conduct in respect to America has been governed. And his Majesty relies upon your prudence and fidelity for such an explanation of his measures, as may tend to remove the prejudices which have been excited by the misrepresentations of those who are enemies to the peace and prosperity of Great Britain and her colonies; and to re-establish that mutual confidence and affection, upon which the glory and safety of the British empire depend."

Here, Sir, is a canonical book of ministerial scripture; the general epistle to the Americans. What does the gentleman say to it? Here a repeal is promised; promised without condition; and while your authority was actually resisted. I pass by the public promise of a peer relative to the repeal of taxes by this House. I pass by the use of the King's name in a matter of supply, that sacred and reserved right of the Commons. I conceal the ridiculous figure of parliament, hurling its thunders at the gigantic rebellion of America; and then five days after, prostrate at the feet of those assemblies we affected to despise; begging them, by the intervention of our ministerial sureties, to receive our submission; and heartily promising amendment. These might have been serious matters formerly; but we are grown wiser than our fathers. Passing, therefore, from the constitutional consideration to the mere policy, does not this letter imply, that the idea of taxing America for the purpose of revenue is an abomina-

ble project; when the ministry suppose none but *factious* men, and with seditious views, could charge them with it? does not this letter adopt and sanctify the American distinction of *taxing for a revenue*? does it not formally reject all future taxation on that principle? does it not state the ministerial rejection of such principle of taxation, not as the occasional, but the constant opinion of the King's servants? does it not say (I care not how consistently), but does it not say, that their conduct with regard to America has been *always* governed by this policy? It goes a great deal further. These excellent and trusty servants of the King, justly fearful lest they themselves should have lost all credit with the world, bring out the image of their gracious sovereign from the inmost and most sacred shrine, and they pawn him, as a security for their promises—"His Majesty relies on your prudence and fidelity for such an explanation of his measures." These sentiments of the minister, and these measures of his Majesty, can only relate to the principle and practice of taxing for a revenue; and accordingly lord Botetourt, stating it as such, did with great propriety, and in the exact spirit of his instructions, endeavour to remove the fears of the Virginian assembly, lest the sentiments, which it seems (unknown to the world) had *always* been those of the ministers, and by which *their* conduct in respect to America had been governed, should by some possible revolution, favourable to wicked American taxers, be hereafter counteracted. He addresses them in this manner:

"It may possibly be objected, that as his Majesty's present administration are not immortal, their successors may be inclined to attempt to undo what the present ministers shall have attempted to perform; and to that objection I can give but this answer: that it is my firm opinion, that the plan I have stated to you will certainly take place, and that it will never be departed from; and so determined am I for ever to abide by it, that I will be content to be declared infamous, if I do not, to the last hour of my life, at all times, in all places, and upon all occasions, exert every power with which I either am, or ever shall be legally invested, in order to obtain and maintain for the continent of America that satisfaction which I have been authorised to promise this day, by the confidential servants of our gracious sovereign, who to my certain knowledge

rates his honour so high, that he would rather part with his crown, than preserve it by deceit.”*

A glorious and true character! which (since we suffer his ministers with impunity to answer for his ideas of taxation) we ought to make it our business to enable his Majesty to preserve in all its lustre. Let him have character, since ours is no more! Let some part of government be kept in respect!

This epistle was not the letter of lord Hillsborough solely; though he held the official pen. It was the letter of the noble lord upon the floor (lord North), and of all the King's then ministers, who (with I think the exception of two only) are his ministers at this hour. The very first news that a British parliament heard of what it was to do with the duties which it had given and granted to the King, was by the publication of the votes of American assemblies. It was in America that your resolutions were pre-declared. It was from thence that we knew to a certainty, how much exactly, and not a scruple more nor less, we were to repeal. We were unworthy to be let into the secret of our own conduct. The assemblies had *confidential* communications from his Majesty's *confidential* servants. We were nothing but instruments. Do you, after this, wonder that you have no weight and no respect in the colonies? After this, are you surprized, that parliament is every day and every where losing (I feel it with sorrow, I utter it with reluctance) that reverential affection, which so endearing a name of authority ought ever to carry with it; that you are obeyed solely from

* A material point is omitted by Mr. Burke in this speech, viz. the manner in which the continent received this royal assurance. The assembly of Virginia, in their address in answer to lord Botetourt's speech, express themselves thus: “We will not suffer our present hopes, arising from the pleasing prospect your lordship hath so kindly opened and displayed to us, to be dashed by the bitter reflection that any future administration will entertain a wish to depart from that plan, which affords the surest and most permanent foundation of public tranquillity and happiness: no, my lord, we are sure our most gracious Sovereign, under whatever changes may happen in his confidential servants, will remain immutable in the ways of truth and justice, and that he is incapable of deceiving his faithful subjects; and we esteem your lordship's information not only as warranted, but even sanctified by the royal word.”

respect to the bayonet; and that this House, the ground and pillar of freedom, is itself held up only by the treacherous under-pinning and clumsy buttresses of arbitrary power?

If this dignity, which is to stand in the place of just policy and common sense, had been consulted, there was a time for preserving it, and for reconciling it with any concession. If in the session of 1768, that session of idle terror and empty menaces, you had, as you were often pressed to do, repealed these taxes; then your strong operations would have come justified and enforced, in case your concessions had been returned by outrages. But, preposterously, you began with violence; and before terrors could have any effect, either good or bad, your ministers immediately begged pardon, and promised that repeal to the obstinate Americans which they had refused in an easy, good-natured, complying British parliament. The assemblies, which had been publicly and avowedly dissolved for their contumacy, are called together to receive your submission. Your ministerial directors blustered like tragic tyrants here; and then went mumping with a sore leg in America, canting, and whining, and complaining of faction, which represented them as friends to a revenue from the colonies. I hope nobody in this House will hereafter have the impudence to defend American taxes in the name of ministry. The moment they do, with this letter of attorney in my hand, I will tell them, in the authorised terms, they are wretches, with factious and seditious views; enemies to the peace and prosperity of the mother country and the colonies, and subverters of the mutual affection and confidence on which the glory and safety of the British empire depend.

After this letter, the question is no more on propriety or dignity. They are gone already. The faith of your sovereign is pledged for the political principle. The general declaration in the letter goes to the whole of it. You must therefore either abandon the scheme of taxing; or you must send the ministers tarred and feathered to America, who dared to hold out the royal faith for a renunciation of all taxes for revenue. Then you must punish, or this faith you must preserve. The preservation of this faith is of more consequence than the duties on red lead, or white lead, or on broken glass, or atlas ordinary, or demi-fine, or blue-royal, or bas-

tard, or fool's-cap, which you have given up; or the three-pence on tea which you retained. The letter went stamp'd with the public authority of this kingdom. The instructions for the colony government go under no other sanction; and America cannot believe, and will not obey you, if you do not preserve this channel of communication sacred. You are now punishing the colonies for acting on distinctions, held out by that very ministry which is here shining in riches, in favour, and in power; and urging the punishment of the very offence, to which they had themselves been the tempters.

Sir, if reasons respecting simply your own commerce, which is your own convenience, were the sole grounds of the repeal of the five duties; why does lord Hillsborough, in disclaiming in the name of the King and ministry their ever having had an intent to tax for revenue, mention it as the means "of re-establishing the confidence and affection of the colonies?" Is it a way of soothing others, to assure them that you will take good care of yourself? The medium, the only medium, for regaining their affection and confidence is, that you will take off something oppressive to their minds. Sir, the letter strongly enforces that idea; for though the repeal of the taxes is promised on commercial principles, yet the means of counteracting "the insinuations of men with factious and seditious views," is by a disclaimer of the intention of taxing for revenue, as a constant invariable sentiment and rule of conduct in the government of America.

I remember that the noble lord on the floor, not in a former debate to be sure (it would be disorderly to refer to it, I suppose I read it somewhere,) but the noble lord was pleased to say, that he did not conceive how it could enter into the head of man to impose such taxes as those of 1767; I mean those taxes which he voted for imposing, and voted for repealing; as being taxes, contrary to all the principles of commerce, laid on British manufactures.

I dare say the noble lord is perfectly well read, because the duty of his particular office requires he should be so, in all our revenue laws; and in the policy which is to be collected out of them. Now, Sir, when he had read this Act of American revenue, and a little recovered from his astonishment, I suppose he made one step retrograde (it is but one) and looked at the Act, which stands just before in the

statute book. The American Revenue Act is the forty-fifth chapter; the other to which I refer is the forty-fourth of the same session. These two Acts are both to the same purpose; both revenue Acts; both taxing out of the kingdom; and both taxing British manufactures exported. As the 45th is an Act for raising a revenue in America, the 44th is an Act for raising a revenue in the Isle of Man. The two Acts perfectly agree in all respects, except one. In the Act for taxing the Isle of Man, the noble lord will find (not, as in the American Act, four or five articles) but almost the whole body of British manufactures, taxed from two and a half to fifteen per cent. and some articles, such as that of spirits, a great deal higher. You did not think it uncommercial to tax the whole mass of your manufactures, and, let me add, your agriculture too; for, I now recollect, British corn is there also taxed up to ten per cent. and this too in the very head quarters, the very citadel of smuggling, the Isle of Man. Now will the noble lord condescend to tell me why he repealed the taxes on your manufactures sent out to America, and not the taxes on the manufactures exported to the Isle of Man? The principle was exactly the same, the objects charged infinitely more extensive, the duties without comparison higher. Why? why, notwithstanding all his childish pretexts, because the taxes were quietly submitted to in the Isle of Man; and because they raised a flame in America. Your reasons were political, not commercial. The repeal was made, as lord Hillsborough's letter well expresses it, to regain "the confidence and affection of the colonies, on which the glory and safety of the British empire depend." A wise and just motive surely, if ever there was such. But the mischief and dishonour is, that you have not done what you had given the colonies just cause to expect, when your ministers disclaimed the idea of taxes for a revenue. There is nothing simple, nothing manly, nothing ingenuous, open, decisive, or steady, in the proceeding, with regard either to the continuance or the repeal of the taxes. The whole has an air of littleness and fraud. The article of tea is slurred over in the Circular Letter, as it were by accident—nothing is said of a resolution either to keep that tax, or to give it up. There is no fair dealing in any part of the transaction.

If you mean to follow your true motive

t, w t:t, w

AA '1:t' AA '1:t' AA '1:t'

t, w t:t, w t:t, w t:t,

t' AA '1:t' AA '1:t' AA '1:t'

t, w t:t, w t:t, w t:t,

and your public faith, give up your tax on tea for raising a revenue, the principle of which has, in effect, been disclaimed in your name; and which produces you no advantage; no, not a penny. Or, if you choose to go on with a poor pretence instead of a solid reason, and will still adhere to your cant of commerce, you have ten thousand times more strong commercial reasons for giving up this duty on tea, than for abandoning the five others that you have already renounced.

The American consumption of teas, is annually, I believe, worth 300,000*l.* at the least farthing. If you urge the American violence as a justification of your perseverance in enforcing his tax, you know that you can never answer this plain question—Why did you repeal the others given in the same Act, whilst the very same violence subsisted?—But you did not find the violence cease upon that concession.—No! because the concession was far short of satisfying the principle which lord Hillsborough had abjured; or even the pretence on which the repeal of the other taxes was announced: and because, by enabling the East India Company to open a shop for defeating the American resolution not to pay that specific tax, you manifestly shewed a hankering after the principle of the Act which you formerly had renounced. Whatever road you take leads to a compliance with this motion. It opens to you at the end of every vista. Your commerce, your policy, your promises, your reasons, your pretences, your consistency, your inconsistency—all jointly oblige you to this repeal.

But still it sticks in our throats, if we go so far, the Americans will go farther.—We do not know that. We ought, from experience, rather to presume the contrary. Do we not know for certain, that the Americans are going on as fast as possible, whilst we refuse to gratify them? Can they do more, or can they do worse, if we yield this point? I think this concession will rather fix a turnpike to prevent their further progress. It is impossible to answer for bodies of men. But I am sure the natural effect of fidelity, clemency, kindness in governors, is peace, good-will, order, and esteem, on the part of the governed. I would certainly, at least, give these fair principles a fair trial; which, since the making of this Act to this hour, they never have had.

Sir, the hon. gentleman having spoken what he thought necessary upon the nar-
[VOL. XVII.]

row part of the subject, I have given him, I hope, a satisfactory answer. He next presses me by a variety of direct challenges and oblique reflexions to say something on the historical part. I shall therefore, Sir, open myself fully on that important and delicate subject; not for the sake of telling you a long story (which, I know, Mr. Speaker, you are not particularly fond of), but for the sake of the weighty instruction that, I flatter myself, will necessarily result from it. It shall not be longer, if I can help it, than so serious a matter requires.

Permit me then, Sir, to lead your attention very far back; back to the Act of Navigation; the corner-stone of the policy of this country with regard to its colonies. Sir, that policy was, from the beginning, purely commercial; and the commercial system was wholly restrictive. It was the system of a monopoly. No trade was let loose from that constraint, but merely to enable the colonists to dispose of what, in the course of your trade, you could not take; or to enable them to dispose of such articles as we forced upon them, and for which, without some degree of liberty, they could not pay. Hence all your specific and detailed enumerations: hence the innumerable checks and counter-checks: hence that infinite variety of paper chains by which you bind together this complicated system of the colonies. This principle of commercial monopoly runs through no less than 29 acts of parliament, from the year 1660 to the unfortunate period of 1764.

In all those Acts the system of commerce is established, as that, from whence alone you proposed to make the colonies contribute (I mean directly and by the operation of your superintending legislative power) to the strength of the empire. I venture to say, that during that whole period, a parliamentary revenue from thence was never once in contemplation. Accordingly in all the number of laws passed with regard to the plantations, the words which distinguish revenue laws, specifically as such, were, I think, premeditatedly avoided. I do not say, Sir, that a form of words alters the nature of the law, or abridges the power of the lawgiver. It certainly does not. However, titles and formal preambles are not always idle words; and the lawyers frequently argue from them. I state these facts to shew, not what was your right, but what has been your settled policy. Our re-
[4 K]

venue laws have usually a title, purporting their being grants, and the words 'give and grant' usually precede the enacting parts. Although duties were imposed on America in Acts of king Charles the 2nd, and in Acts of king William, no one title of giving "an aid to his majesty," or any other of the usual titles to revenue acts, was to be found in any of them till 1764; nor were the words 'give and grant' in any preamble until the 6th of George the 2nd. However, the title of this Act of George the 2nd, notwithstanding the words of donation, considers it merely as a regulation of trade, "An Act for the better securing of the trade of his majesty's sugar colonies in America." This Act was made on a compromise of all, and at the express desire of a part of the colonies themselves. It was therefore in some measure with their consent; and having a title directly purporting only a commercial regulation, and being in truth nothing more, the words were passed by, at a time when no jealousy was entertained, and things were little scrutinized. Even governor Bernard, in his second printed letter, dated in 1763, gives it as his opinion, that "it was an act of prohibition, not of revenue." This is certainly true; that no act avowedly for the purpose of revenue, and with the ordinary title and recital taken together, is found in the statute book until the year I have mentioned; that is the year 1764. All before this period stood on commercial regulation and restraint. The scheme of a colony revenue by British authority appeared therefore to the Americans in the light of a great innovation; the words of governor Bernard's ninth letter, written in November, 1765, state this idea very strongly; "it must," says he, "have been supposed, such an innovation as a parliamentary taxation, would cause a great alarm, and meet with much opposition in most parts of America; it was quite new to the people, and had no visible bounds set to it." After stating the weakness of government there, he says, "was this a time to introduce so great a novelty as a parliamentary inland taxation in America?" Whatever the right might have been, this mode of using it was absolutely new in policy and practice.

Sir, they who are friends to the schemes of American revenue say, that the commercial restraint is full as hard a law for America to live under. I think so too. I think it, if uncompensated, to be a condi-

tion of as rigorous servitude as men can be subject to. But America bore it from the fundamental act of navigation until 1764.—Why? Because men do bear the inevitable constitution of their original nature with all its infirmities. The act of navigation attended the colonies from their infancy, grew with their growth, and strengthened with their strength. They were confirmed in obedience to it, even more by usage than by law. They scarcely had remembered a time when they were not subject to such restraint. Besides, they were indemnified for it by a pecuniary compensation. Their monopolist happened to be one of the richest men in the world. By his immense capital (primarily employed, not for their benefit, but his own), they were enabled to proceed with their fisheries, their agriculture, their ship-building (and their trade too within the limits), in such a manner as got far the start of the slow languid operations of unassisted nature. This capital was a hot-bed to them. Nothing in the history of mankind is like their progress. For my part, I never cast an eye on their flourishing commerce, and their cultivated and commodious life, but they seem to me rather ancient nations grown to perfection through a long series of fortunate events, and a train of successful industry, accumulating wealth in many centuries, than the colonies of yesterday; than a set of miserable out-casts, a few years ago, not so much sent as thrown out, on the bleak and barren shore of a desolate wilderness three thousand miles from all civilized intercourse.

All this was done by England, whilst England pursued trade, and forgot revenue. You not only acquired commerce, but you actually created the very objects of trade in America; and by that creation you raised the trade of this kingdom at least four-fold. America had the compensation of your capital, which made her bear her servitude. She had another compensation, which you are now going to take away from her. She had, except the commercial restraint, every characteristic mark of a free people in all her internal concerns. She had the image of the British constitution. She had the substance. She was taxed by her own representatives. She chose most of her own magistrates. She paid them all. She had in effect the sole disposal of her own internal government. This whole state of commercial servitude and civil liberty, taken together,

is certainly not perfect freedom ; but comparing it with the ordinary circumstances of human nature, it was a happy and a liberal condition.

I know, Sir, that great and not unsuccessful pains have been taken to inflame our minds by an out-cry, in this House and out of it, that in America the act of navigation neither is, or ever was, obeyed. But if you take the colonies through, I affirm, that its authority never was disputed ; that it was no where disputed for any length of time ; and on the whole, that it was well observed. Wherever the act pressed hard, many individuals indeed evaded it. This is nothing. These scattered individuals never denied the law, and never obeyed it. Just as it happens whenever the laws of trade, whenever the laws of revenue, press hard upon the people in England ; in that case all your shores are full of contraband. Your right to give a monopoly to the East India Company, your right to lay immense duties on French brandy, are not disputed in England. You do not make this charge on any man. But you know that there is not a creek from Pentland Frith to the Isle of Wight, in which they do not smuggle immense quantities of teas, East India goods, and brandies. I take it for granted, that the authority of governor Bernard in this point is indisputable. Speaking of these laws, as they regarded that part of America now in so unhappy a condition, he says, " I believe they are no where better supported than in this province ; I do not pretend that it is entirely free from a breach of these laws ; but that such a breach, if discovered, is justly punished." What more can you say of the obedience to any laws in any country ? An obedience to these laws formed the acknowledgment, instituted by yourselves, for your superiority ; and was the payment you originally imposed for your protection.

Whether you were right or wrong in establishing the colonies on the principles of commercial monopoly, rather than on that of revenue, is at this day a problem of mere speculation. You cannot have both by the same authority. To join together the restraints of an universal internal and external monopoly, with an universal internal and external taxation, is an unnatural union ; perfect uncompensated slavery. You have long since decided for yourself and them ; and you and they have prospered exceedingly under that decision.

This nation, Sir, never thought of departing from that choice until the period immediately on the close of the last war. Then a scheme of government new in many things seemed to have been adopted. I saw, or thought I saw, several symptoms of a great change, whilst I sat in your gallery, a good while before I had the honour of a seat in this House. At that period the necessity was established of keeping up no less than twenty new regiments, with twenty colonels capable of seats in this House. This scheme was adopted with very general applause from all sides, at the very time that, by your conquests in America, your danger from foreign attempts in that part of the world was much lessened, or indeed rather quite over. When this huge encrease of military establishment was resolved on, a revenue was to be found to support so great a burthen. Country gentlemen, the great patrons of œconomy, and the great resisters of a standing armed force, would not have entered with much alacrity into the vote for so large and so expensive an army, if they had been very sure that they were to continue to pay for it. But hopes of another kind were held out to them ; and in particular, I well remember, that Mr. Townshend, in a brilliant harangue on this subject, did dazzle them, by playing before their eyes the image of a revenue to be raised in America.

Here began to dawn the first glimmerings of this new colony system. It appeared more distinctly afterwards, when it was devolved upon a person to whom, on other accounts, this country owes very great obligations. I do believe, that he had a very serious desire to benefit the public. But with no small study of the detail, he did not seem to have his view, at least equally, carried to the total circuit of our affairs. He generally considered his objects in lights that were rather too detached. Whether the business of an American revenue was imposed upon him altogether ; whether it was entirely the result of his own speculation ; or, what is more probable, that his own ideas rather coincided with the instructions he had received ; certain it is, that, with the best intentions in the world, he first brought this fatal scheme into form, and established it by act of parliament.

No man can believe, that at this time of day I mean to lean on the venerable memory of a great man, whose loss we deplore in common. Our little party-diffe-

rences have been long ago composed; and I have acted more with him, and certainly with more pleasure with him, than ever I acted against him. Undoubtedly Mr. Grenville was a first-rate figure in this country. With a masculine understanding, and a stout and resolute heart, he had an application undissipated and unwearied. He took public business, not as a duty which he was to fulfil, but as a pleasure he was to enjoy; and he seemed to have no delight out of this House, except in such things as some way related to the business that was to be done within it.

If he was ambitious, I will say this for him, his ambition was of a noble and generous strain. It was to raise himself, not by the low pimping politics of a court, but to win his way to power, through the laborious gradations of public service; and to secure to himself a well-earned rank in parliament, by a thorough knowledge of its constitution, and a perfect practice in all its business.

Sir, if such a man fell into errors, it must be from defects not intrinsic; they must be rather sought in the particular habits of his life; which, though they do not alter the ground-work of character, yet tinge it with their own hue. He was bred in a profession. He was bred to the law, which is, in my opinion, one of the first and noblest of human sciences; a science which does more to quicken and invigorate the understanding, than all the other kinds of learning put together; but it is not apt, except in persons very happily born, to open and to liberalize the mind exactly in the same proportion. Passing from that study he did not go very largely into the world; but plunged into business; I mean into the business of office; and the limited and fixed methods and forms established there. Much knowledge is to be had undoubtedly in that line; and there is no knowledge which is not valuable. But it may be truly said, that men too much conversant in office, are rarely minds of remarkable enlargement. Their habits of office are apt to give them a turn to think the substance of business not to be much more important than the forms in which it is conducted. These forms are adapted to ordinary occasions; and therefore persons who are nurtured in office do admirably well, as long as things go on in their common order; but when the high roads are broken up, and the waters out, when a new and troubled scene is opened, and the file af-

fords no precedent, then it is that a greater knowledge of mankind, and a far more extensive comprehension of things, is requisite than ever office gave, or than office can ever give. Mr. Grenville thought better of the wisdom and power of human legislation than in truth it deserves. He conceived, and many conceived along with him, that the flourishing trade of this country was greatly owing to law and institution, and not quite so much to liberty; for but too many are apt to believe regulation to be commerce, and taxes to be revenue. Among regulations, that which stood first in reputation was his idol. I mean the Act of Navigation. He has often professed it to be so. The policy of that act is, I readily admit, in many respects well understood. But I do say, that if the act be suffered to run the full length of its principle, and is not changed and modified according to the change of times and the fluctuation of circumstances, it must do great mischief, and frequently even defeat its own purpose.

After the war, and in the last years of it, the trade of America had increased far beyond the speculations of the most sanguine imagination. It swelled out on every side. It filled all its proper channels to the brim. It over-flowed with a rich redundancy, and breaking its banks on the right and on the left, it spread out upon some places where it was indeed improper, upon others where it was only irregular. It is the nature of all greatness not to be exact; and great trade will always be attended with considerable abuses. The contraband will always keep pace in some measure with the fair trade. It should stand as a fundamental maxim, that no vulgar precaution ought to be employed in the cure of evils, which are closely connected with the cause of our prosperity. Perhaps this great person turned his eye somewhat less than was just, towards the incredible increase of the fair trade; and looked with something of too exquisite a jealousy towards the contraband. He certainly felt a singular degree of anxiety on the subject; and even began to act from that passion earlier than is commonly imagined. For whilst he was first lord of the Admiralty, though not strictly called upon in his official line, he presented a very strong memorial to the lords of the Treasury; (my lord Bute was then at the head of the board) heavily complaining of the growth of the illicit commerce in America. Some mischief happened even at that time from

this over-earnest zeal. Much greater happened afterwards when it operated with greater power in the highest department of the finances. The bonds of the act of navigation were straitened so much, that America was on the point of having no trade, either contraband or legitimate. They found, under the construction and execution then used, the act no longer tying but actually strangling them. All this coming with new enumerations of commodities; with regulations which in a manner put a stop to the mutual coasting intercourse of the colonies; with the appointment of courts of admiralty under various improper circumstances; with a sudden extinction of the paper currencies; with a compulsory provision for the quartering of soldiers; the people of America thought themselves proceeded against as delinquents, or at best as people under suspicion of delinquency; and in such a manner, as they imagined, their recent services in the war did not at all merit. Any of these innumerable regulations, perhaps, would not have alarmed alone; some might be thought reasonable; the multitude struck them with terror.

But the grand manœuvre in that business of new regulating the colonies, was the 15th act of the fourth of George 3; which, besides containing several of the matters to which I have just alluded, opened a new principle: and here properly began the second period of the policy of this country with regard to the colonies; by which the scheme of a regular plantation parliamentary revenue was adopted in theory, and settled in practice. A revenue not substituted in the place of, but superadded to, a monopoly; which monopoly was enforced at the same time with additional strictness, and the execution put into military hands.

This act, Sir, had for the first time the title of "granting duties in the colonies and plantations of America;" and for the first time it was asserted in the preamble, "that it was just and necessary that a revenue should be raised there." Then came the technical words of "giving and granting;" and thus a complete American revenue act was made in all the forms, and with a full avowal of the right, equity, policy, and even necessity of taxing the colonies, without any formal consent of theirs. There are contained also in the preamble to that act these very remarkable words—the Commons, &c.—"being desirous to make some provision in the

present session of parliament towards raising the said revenue." By these words it appeared to the colonies, that this act was but a beginning of sorrows; that every session was to produce something of the same kind; that we were to go on from day to day, in charging them with such taxes as we pleased, for such a military force as we should think proper. Had this plan been pursued, it was evident that the provincial assemblies, in which the Americans felt all their portion of importance, and beheld their sole image of freedom, were *ipso facto* annihilated. This ill prospect before them seemed to be boundless in extent, and endless in duration. Sir, they were not mistaken. The ministry valued themselves when this act passed, and when they gave notice of the Stamp Act, that both of the duties came very short of their ideas of American taxation. Great was the applause of this measure here. In England we cried out for new taxes on America, whilst they cried out that they were nearly crushed with those which the war and their own grants had brought upon them.

Sir, it has been said in the debate, that when the first American revenue act (the act in 1764, imposing the port duties) passed, the Americans did not object to the principle. It is true they touched it but very tenderly. It was not a direct attack. They were, it is true, as yet novices; as yet unaccustomed to direct attacks upon any of the rights of parliament. The duties were port duties, like those they had been accustomed to bear; with this difference, that the title was not the same, the preamble not the same, and the spirit altogether unlike. But of what service is this observation to the cause of those that make it? It is a full refutation of the pretence for their present cruelty to America; for it shews, out of their own mouths, that our colonies were backward to enter into the present vexatious and ruinous controversy.

There is also another circulation abroad, (spread with a malignant intention, which I cannot attribute to those who say the same thing in this House) that Mr. Grenville gave the colony agents an option for their assemblies to tax themselves, which they had refused. I find that much stress is laid on this, as a fact. However, it happens neither to be true nor possible. I will observe first, that Mr. Grenville never thought fit to make this apology for himself in the innumerable debates that were

had upon the subject. He might have proposed to the colony agents, that they should agree in some mode of taxation as the ground of an act of parliament. But he never could have proposed that they should tax themselves on requisition, which is the assertion of the day. Indeed, Mr. Grenville well knew, that the colony agents could have no general powers to consent to it; and they had no time to consult their assemblies for particular powers, before he passed his first revenue Act. If you compare dates, you will find it impossible. Burthened as the agents knew the colonies were at that time, they could not give the least hope of such grants. His own favourite governor was of opinion that the Americans were not then taxable objects.

“Nor was the time less favourable to the equity of such a taxation. I don’t mean to dispute the reasonableness of America contributing to the charges of Great Britain when she is able; nor, I believe, would the Americans themselves have disputed it, at a proper time and season. But it should be considered, that the American governments themselves have, in the prosecution of the late war, contracted very large debts; which it will take some years to pay off, and in the mean time occasion very burdensome taxes for that purpose only. For instance, this government, which is as much beforehand as any, raises every year 37,500*l.* sterling for sinking their debt, and must continue it for four years longer at least before it will be clear.”

These are the words of governor Bernard’s Letter to a member of the old ministry, and which he has since printed. Mr. Grenville could not have made this proposition to the agents, for another reason. He was of opinion, which he has declared in this House a hundred times, that the colonies could not legally grant any revenue to the crown; and that infinite mischiefs would be the consequence of such a power. When Mr. Grenville had passed the first revenue Act, and in the same session had made this House come to a resolution for laying a stamp-duty on America, between that time and the passing the Stamp-Act into a law, he told a considerable and most respectable merchant, a member of this House, whom I am truly sorry I do not now see in his place, when he represented against this proceeding, that if the stamp-duty was disliked, he was willing to exchange it for

any other equally productive; but that if he objected to the Americans being taxed by parliament, he might save himself the trouble of the discussion, as he was determined on the measure. This is the fact, and, if you please, I will mention a very unquestionable authority for it.

Thus, Sir, I have disposed of this falsehood. But falsehood has a perennial spring. It is said, that no conjecture could be made of the dislike of the colonies to the principle. This is as untrue as the other. After the resolution of the House, and before the passing of the Stamp Act, the colonies of Massachusetts Bay and New York did send remonstrances, objecting to this mode of parliamentary taxation. What was the consequence? They were suppressed; they were put under the table; notwithstanding an order of council to the contrary, by the ministry which composed the very council that had made the order; and thus the House proceeded to its business of taxing, without the least regular knowledge of the objections which were made to it. But to give that House its due, it was not over-desirous to receive information, or to hear remonstrance. On the 15th of February, 1765, whilst the Stamp-Act was under deliberation, they refused with scorn even so much as to receive four petitions presented from so respectable colonies as Connecticut, Rhode Island, Virginia, and Carolina; besides one from the traders of Jamaica. As to the colonies, they had no alternative left to them, but to disobey; or to pay the taxes imposed by that parliament which was not suffered, or did not suffer itself, even to hear them remonstrate upon the subject.

This was the state of the colonies before his Majesty thought fit to change his ministers. It stands upon no authority of mine. It is proved by uncontrovertible records. The hon. gentleman has desired some of us to lay our hands upon our hearts, and answer to his queries upon the historical part of this consideration; and by his manner (as well as my eyes could discern it) he seemed to address himself to me.

Sir, I will answer him as clearly as I am able, and with great openness: I have nothing to conceal. In the year 1765, being in a very private station, far enough from any line of business, and not having the honour of a seat in this House, it was my fortune, unknowing and unknown to the then ministry, by the intervention of a common friend, to become connected with

a very noble person, and at the head of the Treasury department. It was indeed in a situation of little rank and no consequence, suitable to the mediocrity of my talents and pretensions. But a situation near enough to enable me to see, as well as others, what was going on; and I did see in that noble person such sound principles, such an enlargement of mind, such clear and sagacious sense, and such unshaken fortitude, as have bound me, as well as others much better than me, by an inviolable attachment to him from that time forward. Sir; lord Rockingham very early in that summer received a strong representation from many weighty English merchants and manufacturers, from governors of provinces and commanders of men of war, against almost the whole of the American commercial regulations; and particularly with regard to the total ruin which was threatened to the Spanish trade. I believe, Sir, the noble lord soon saw his way in this business. But he did not rashly determine against acts which it might be supposed were the result of much deliberation. However, Sir, he scarcely began to open the ground, when the whole veteran body of office took the alarm. A violent outcry of all (except those who knew and felt the mischief) was raised against any alteration. On one hand his attempt was a direct violation of treaties and public law.—On the other, the Act of Navigation and all the corps of trade laws were drawn up in array against it.

The first step the noble lord took, was to have the opinion of his excellent, learned, and ever lamented friend the late Mr. Yorke, then attorney-general, on the point of law. When he knew that formally and officially, which in substance he had known before, he immediately dispatched orders to redress the grievance. But I will say it for the then minister, he is of that constitution of mind, that I know he would have issued, on the same critical occasion, the very same orders, if the Acts of Trade had been, as they were not, directly against him; and would have cheerfully submitted to the equity of parliament for his indemnity.

On the conclusion of this business of the Spanish trade, the news of the troubles, on account of the Stamp-Act, arrived in England. It was not until the end of October that these accounts were received. No sooner had the sound of that mighty tempest reached us in Eng-

land, than the whole of the then opposition, instead of feeling humbled by the unhappy issue of their measures, seemed to be infinitely elated, and cried out, that the ministry, from envy to the glory of their predecessors, were prepared to repeal the Stamp Act. Near nine years after, the hon. gentleman takes quite opposite ground, and now challenges me to put my hand to my heart, and say, whether the ministry had resolved on the repeal till a considerable time after the meeting of parliament. Though I do not very well know what the hon. gentleman wishes to infer from the admission, or from the denial, of this fact, on which he so earnestly adjures me; I do put my hand on my heart, and assure him, that they did not come to a resolution directly to repeal. They weighed this matter as its difficulty and importance required. They considered maturely among themselves. They consulted with all who could give advice or information. It was not determined until a little before the meeting of parliament; but it was determined, and the main lines of their own plan marked out before that meeting. Two questions arose (I hope I am not going into a narrative troublesome to the House) [A cry of, Go on, go on.] The first of the two considerations was, whether the repeal should be total, or whether only partial; taking out every thing burthensome and productive, and reserving only an empty acknowledgment, such as a stamp on cards or dice. The other question was, on what principle the Act should be repealed? On this head also two principles were started. One, that the legislative rights of this country, with regard to America, were not entire, but had certain restrictions and limitations. The other principle was, that taxes of this kind were contrary to the fundamental principles of commerce on which the colonies were founded; and contrary to every idea of political equity; by which equity we are bound, as much as possible, to extend the spirit and benefit of the British constitution to every part of the British dominions. The option, both of the measure, and of the principle of repeal, was made before the session; and I wonder how any one can read the King's Speech at the opening of that session, without seeing in that speech both the repeal and the declaratory Act very sufficiently crayoned out. Those who cannot see this, can see nothing.

Surely the hon. gentleman will not think

that a great deal less time than was then employed, ought to have been spent in deliberation; when he considers that the news of the troubles did not arrive till towards the end of October. The parliament sat to fill the vacancies on the 14th day of December, and on business the 14th of the following January.

Sir, a partial repeal, or, as the *bon ton* of the court then was, a *modification*, would have satisfied a timid, unsystematic, procrastinating ministry, as such a measure has since done such a ministry. A modification is the constant resource of weak undeciding minds. To repeal by a denial of our right to tax in the preamble (and this too did not want advisers), would have cut, in the heroic style, the Gordian knot with a sword. Either measure would have cost no more than a day's debate. But when the total repeal was adopted, and adopted on principles of policy, of equity, and of commerce; this plan made it necessary to enter into many and difficult measures. It became necessary to open a very large field of evidence commensurate to these extensive views. But then this labour did knights service. It opened the eyes of several to the true state of the American affairs; it enlarged their ideas; it removed prejudices; and it conciliated the opinions and affections of men. The noble lord, who then took the lead in administration, my hon. friend (Mr. Dowdeswell) under me, and a right hon. gentleman (general Conway), (if he will not reject his share, and it was a large one of this business) exerted the most laudable industry in bringing before you the fullest, most impartial, and least garbled body of evidence that ever was produced to this House. I think the enquiry lasted in the committee for six weeks; and at its conclusion this House, by an independent, noble, spirited, and unexpected majority; by a majority that will redeem all the acts ever done by majorities in parliament; in the teeth of all the old mercenary Swiss of state, in despite of all the speculators and augurs of political events, in defiance of the whole embattled legion of veteran pensioners, and practised instruments of a court, gave a total repeal to the Stamp Act, and (if it had been so permitted) a lasting peace to this whole empire.

I state, Sir, these particulars, because this act of spirit and fortitude has lately been, in the circulation of the season, and in some hazarded declamations in this

House, attributed to timidity. If, Sir, the conduct of ministry, in proposing the repeal, had arisen from timidity with regard to themselves, it would have been greatly to be condemned. Interested timidity disgraces as much in the cabinet, as personal timidity does in the field. But timidity, with regard to the well-being of our country, is heroic virtue. The noble lord who then conducted affairs, and his worthy colleagues, whilst they trembled at the prospect of such distresses as you have since brought upon yourselves, were not afraid steadily to look in the face that glaring and dazzling influence at which the eyes of eagles have blenched. He looked in the face one of the ablest, and, let me say, not the most scrupulous oppositions, that perhaps ever was in this House, and withstood it, unaided by even one of the usual supports of administration. He did this when he repealed the Stamp Act. He looked in the face a person he had long respected and regarded, and whose aid was then particularly wanting; I mean lord Chatham. He did this when he passed the Declaratory Act.

It is now given out, for the usual purposes, by the usual emissaries, that lord Rockingham did not consent to the repeal of this act until he was bullied into it by lord Chatham; and the reporters have gone so far as publicly to assert, in a hundred companies, that the hon. gentleman under the gallery (general Conway), who proposed the repeal in the American committee, had another set of resolutions in his pocket directly the reverse of those he moved. These artifices of a desperate cause are, at this time, spread abroad, with incredible care, in every part of the town, from the highest to the lowest companies; as if the industry of the circulation were to make amends for the absurdity of the report.

Sir, whether the noble lord is of a complexion to be bullied by lord Chatham, or by any man, I must submit to those who know him. I confess, when I look back to that time, I consider him as placed in one of the most trying situations in which, perhaps, any man ever stood. In the House of Peers there were very few of the ministry, out of the noble lord's own particular connection, (except lord Egmont, who acted, as far as I could discern, an honourable and manly part), that did not look to some other future arrangement, which warped his politics. There were in both Houses new and menacing appearances, that

might very naturally drive any other, than a most resolute minister, from his measure, or from his station. The household troops openly revolted. The allies of ministry, (those, I mean, who supported some of their measures, but refused responsibility for any) endeavoured to undermine their credit, and to take ground that must be fatal to the success of the very cause which they would be thought to countenance. The question of the repeal was brought on by ministry in the committee of this House, in the very instant when it was known that more than one court negotiation was carrying on with the heads of the opposition. Every thing, upon every side, was full of traps and mines. Earth below shook; heaven above menaced; all the elements of ministerial safety were dissolved. It was in the midst of this chaos of plots and counterplots; it was in the midst of this complicated warfare against public opposition and private treachery, that the firmness of that noble person was put to the proof. He never stirred from his ground; no, not an inch. He remained fixed and determined, in principle, in measure, and in conduct. He practised no managements. He secured no retreat. He sought no apology.

I will likewise do justice, I ought to do it, to the hon. gentleman who led us in this House (general Conway). Far from the duplicity wickedly charged on him, he acted his part with alacrity and resolution. We all felt inspired by the example he gave us, down even to myself, the weakest in that phalanx. I declare for one, I knew well enough (it could not be concealed from any body) the true state of things; but, in my life, I never came with so much spirits into this House. It was a time for a man to act in. We had powerful enemies; but we had faithful and determined friends; and a glorious cause. We had a great battle to fight; but we had the means of fighting; not as now, when our arms are tied behind us. We did fight that day and conquer.

I remember, Sir, with a melancholy pleasure, the situation of the hon. gentleman (general Conway) who made the motion for the repeal; in that crisis, when the whole trading interest of this empire, crammed into your lobbies, with a trembling and anxious expectation, waited, almost to a winter's return of light, their fate from your resolutions. When, at length, you had determined in

[VOL. XVII.]

their favour, and your doors, thrown open, shewed them the figure of their deliverer in the well-earned triumph of his important victory, from the whole of that grave multitude there arose an involuntary burst of gratitude and transport. They jumped upon him like children on a long absent father. They clung about him as captives about their redeemer. All England, all America joined in his applause. Nor did he seem insensible to the best of all earthly rewards, the love and admiration of his fellow-citizens. Hope elevated and joy brightened his crest. I stood near him; and his face, to use the expression of the Scripture of the first martyr, "his face was as if it had been the face of an angel." I do not know how others feel; but if I had stood in that situation, I never would have exchanged it for all that kings in their profusion could bestow. I did hope, that that day's danger and honour would have been a bond to hold us all together for ever. But, alas! that, with other pleasing visions, is long since vanished.

Sir, this act of supreme magnanimity has been represented, as if it had been a measure of an administration, that, having no scheme of their own, took a middle line, pilfered a bit from one side and a bit from the other. Sir, they took no middle lines. They differed fundamentally from the schemes of both parties; but they preserved the objects of both. They preserved the authority of Great Britain. They preserved the equity of Great Britain. They made the Declaratory Act; they repealed the Stamp Act. They did both fully; because the Declaratory Act was without qualification; and the repeal of the Stamp Act total. This they did in the situation I have described.

Now, Sir, what will the adversary say to both these Acts? If the principle of the Declaratory Act was not good, the principle we are contending for this day is monstrous. If the principle of the repeal was not good, why are we not at war for a real substantial effective revenue? If both were bad, why has this ministry incurred all the inconveniences of both and of all schemes? Why have they enacted, repealed, enforced, yielded, and now attempt to enforce again?

Sir, I think I may as well now, as at any other time, speak to a certain matter of fact not wholly unrelated to the question under your consideration. We, who would persuade you to revert to the ancient policy of this kingdom, labour

[4 L]

under the effect of this short current phrase, which the court leaders have given out to all their corps, in order to take away the credit of those who would prevent you from that frantic war you are going to wage upon your colonies. Their cant is this; "All the disturbances in America have been created by the repeal of the Stamp Act." I suppress for a moment my indignation at the falsehood, baseness, and absurdity of this most audacious assertion. Instead of remarking on the motives and character of those who have issued it for circulation, I will clearly lay before you the state of America, antecedently to that repeal; after the repeal; and since the renewal of the schemes of American taxation.

It is said, that the disturbances, if there were any, before the repeal, were slight; and without difficulty or inconvenience might have been suppressed. For an answer to this assertion I will send you to the great author and patron of the Stamp Act, who certainly meaning well to the authority of this country, and fully apprized of the state of that, made, before a repeal was so much as agitated in this House, the motion which is on your Journals; and which, to save the clerk the trouble of turning to it, I will now read to you. It was for an amendment to the address of the 17th of December 1765:

"To express our just resentment and indignation at the outrageous tumults and insurrections which have been excited and carried on in North America; and at the resistance given by open and rebellious force to the execution of the laws in that part of his Majesty's dominions. And to assure his Majesty, that his faithful Commons, animated with the warmest duty and attachment to his royal person and government, will firmly and effectually support his Majesty in all such measures as shall be necessary for preserving and supporting the legal dependance of the colonies on the mother country, &c. &c."*

Here was certainly a disturbance preceding the repeal; such a disturbance as Mr. Grenville thought necessary to qualify by the name of an insurrection, and the epithet of a rebellious force: terms much stronger than any, by which, those who then supported his motion, have ever since thought proper to distinguish the

subsequent disturbances in America. They were disturbances which seemed to him and his friends to justify as strong a promise of support, as hath been usual to give in the beginning of a war with the most powerful and declared enemies. When the accounts of the American governors came before the House, they appeared stronger even than the warmth of public imagination had painted them; so much stronger, that the papers on your table bear me out in saying, that all the late disturbances, which have been at one time the minister's motives for the repeal of five out of six of the new court taxes, and are now his pretences for refusing to repeal that sixth, did not amount—why do I compare them? no, not to a tenth part of the tumults and violence which prevailed long before the repeal of that Act.

Ministry cannot refuse the authority of the commander in chief general Gage, who, in his letter of the 4th of November, from New York, thus represents the state of things:

"It is difficult to say, from the highest to the lowest, who has not been accessory to this insurrection, either by writing or mutual agreements to oppose the act, by what they are pleased to term all legal opposition to it. Nothing effectual has been proposed either to prevent or quell the tumult. The rest of the provinces are in the same situation as to a positive refusal to take the stamps; and threatening those who shall take them, to plunder and murder them; and this affair stands in all the provinces, that unless the Act, from its own nature, enforce itself, nothing but a very considerable military force can do it."

It is remarkable, Sir, that the persons who formerly trumpeted forth the most loudly, the violent resolutions of assemblies; the universal insurrections; the seizing and burning the stamped papers; the forcing stamp officers to resign their commissions under the gallows; the rifling and pulling down of the houses of magistrates; and the expulsion from their country of all who dared to write or speak a single word in defence of the powers of parliament; these very trumpeters are now the men that represent the whole as a mere trifle; and choose to date all the disturbances from the repeal of the Stamp Act, which put an end to them. Hear your officers abroad, and let them refute this shameless falsehood, who, in all their correspondence, state the disturbances as

* See vol. 16, p. 38.

owing to their true causes, the discontent of the people, from the taxes. You have this evidence in your own archives—and it will give you complete satisfaction; if you are not so far lost to all parliamentary ideas of information, as rather to credit the lye of the day, than the records of your own House.

Sir, this vermin of court reporters, when they are forced into day upon one point, are sure to burrow in another; but they shall have no refuge: I will make them bolt out of all their holes. Conscious that they must be baffled, when they attribute a precedent disturbance to a subsequent measure, they take other ground almost as absurd, but very common in modern practice, and very wicked; which is, to attribute the ill effect of ill-judged conduct to the arguments which had been used to dissuade us from it. They say, that the opposition made in parliament to the Stamp Act at the time of its passing, encouraged the Americans to their resistance. This has even formally appeared in print in a regular volume, from an advocate of that faction, a Dr. Tucker. This Dr. Tucker is already a dean, and his earnest labours in this vineyard will, I suppose, raise him to a bishoprick. But this assertion too, just like the rest, is false. In all the papers which have loaded your table; in all the vast crowd of verbal witnesses that appeared at your bar, witnesses which were indiscriminately produced from both sides of the House; not the least hint of such a cause of disturbance has ever appeared. As to the fact of a strenuous opposition to the Stamp Act, I sat as a stranger in your gallery when the act was under consideration. Far from any thing inflammatory, I never heard a more languid debate in this House. No more than two or three gentlemen, as I remember, spoke against the Act, and that with great reserve and remarkable temper. There was but one division in the whole progress of the Bill; and the minority did not reach to more than 39 or 40. In the House of Lords I do not recollect that there was any debate or division at all. I am sure there was no protest. In fact, the affair passed with so very, very little noise, that in town they scarcely knew the nature of what you were doing. The opposition to the Bill in England never could have done this mischief, because there scarcely ever was less of opposition to a Bill of consequence.

Sir, the agents and distributors of false-

hoods have, with their usual industry, circulated another lye of the same nature with the former. It is this, that the disturbances arose from the account which had been received in America of the change in the ministry. No longer awed, it seems, with the spirit of the former rulers, they thought themselves a match for what our calumniators choose to qualify by the name of so feeble a ministry as succeeded. Feeble in one sense these men certainly may be called; for with all their efforts, and they have made many, they have not been able to resist the distempered vigour, and insane alacrity with which you are rushing to your ruin. But it does so happen, that the falsity of this circulation is (like the rest) demonstrated by indisputable dates and records.

So little was the change known in America, that the letters of your governors, giving an account of these disturbances long after they had arrived at their highest pitch, were all directed to the old ministry, and particularly to the earl of Halifax, the secretary of state corresponding with the colonies, without once in the smallest degree intimating the slightest suspicion of any ministerial revolution whatsoever. The ministry was not changed in England until the 10th day of July 1765. On the 14th of the preceding June, governor Fauquier from Virginia writes thus; and writes thus to the earl of Halifax: "Government is set at defiance, not having strength enough in her hands to enforce obedience to the laws of the community.—The private distress, which every man feels, encreases the general dissatisfaction at the duties laid by the Stamp Act, which breaks out, and shews itself upon every trifling occasion." The general dissatisfaction had produced some time before, that is, on the 29th of May, several strong public resolves against the Stamp Act; and those resolves are assigned by governor Bernard, as the cause of the insurrections in Massachusetts Bay, in his letter of the 15th of August, still addressed to the earl of Halifax; and he continued to address such accounts to that minister quite to the 7th of September of the same year. Similar accounts, and of as late a date, were sent from other governors, and all directed to lord Halifax. Not one of these letters indicates the slightest idea of a change either known, or even apprehended.

Thus are blown away the insect race of courtly falsehoods! thus perish the miser-

able inventions of the wretched runners for a wretched cause, which they have fly-blown into every weak and rotten part of the country, in vain hopes that when their maggots had taken wing, their importunate buzzing might sound something like the public voice!

Sir, I have troubled you sufficiently with the state of America before the repeal. Now I turn to the hon. gentleman who so stoutly challenges us, to tell, whether, after the repeal, the provinces were quiet? This is coming home to the point. Here I meet him directly; and answer most readily, They were quiet. And I, in my turn, challenge him to prove when, and where, and by whom, and in what numbers, and with what violence, the other laws of trade, as gentlemen assert, were violated in consequence of your concession? or that even your other revenue laws were attacked? But I quit the vantage ground on which I stand, and where I might leave the burthen of the proof upon him; I walk down upon the open plain, and undertake to shew, that they were not only quiet, but shewed many unequivocal marks of acknowledgment and gratitude. And to give him every advantage, I select the obnoxious colony of Massachusetts Bay, which at this time (but without hearing her) is so heavily a culprit before parliament—I will select their proceedings even under circumstances of no small irritation. For, a little imprudently I must say, governor Bernard mixed in the administration of the lenitive of the repeal no small acrimony arising from matters of a separate nature. Yet see, Sir, the effect of that lenitive, though mixed with these bitter ingredients; and how this rugged people can express themselves on a measure of concession.

“If it is not now in our power” (say they in their address to governor Bernard), “in so full a manner as will be expected, to shew our respectful gratitude to the mother country, or to make a dutiful and affectionate return to the indulgence of the King and parliament, it shall be no fault of ours; for this we intend, and hope we shall be able fully to effect.”

Would to God that this temper had been cultivated, managed, and set in action! other effects than those which we have since felt would have resulted from it. On the requisition for compensation to those who had suffered from the violence of the populace, in the same address they say, “The recommendation enjoined by

Mr. Secretary Conway’s letter, and in consequence thereof made to us, we will embrace the first convenient opportunity to consider and act upon.” They did consider; they did act upon it. They obeyed the requisition. I know the mode has been chicaned upon; but it was substantially obeyed; and much better obeyed, than I fear the parliamentary requisition of this session will be, though enforced by all your rigour, and backed with all your power. In a word, the damages of popular fury were compensated by legislative gravity. Almost every other part of America in various ways demonstrated their gratitude. I am bold to say, that so sudden a calm recovered after so violent a storm is without parallel in history. To say that no other disturbance should happen from any other cause is folly. But as far as appearances went, by the judicious sacrifice of one law, you procured an acquiescence in all that remained. After this experience, nobody shall persuade me, when a whole people are concerned, that acts of lenity are not means of conciliation.

I hope the hon. gentleman has received a fair and full answer to his question.

I have done with the third period of your policy; that of your repeal; and the return of your ancient system, and your ancient tranquillity and concord. Sir, this period was not as long as it was happy. Another scene was opened, and other actors appeared on the stage. The state, in the condition I have described it, was delivered into the hands of lord Chatham—a great and celebrated name; a name that keeps the name of this country respectable in every other on the globe. It may be truly called,

—Clarum et venerabile nomen

Gentibus, et multum nostræ quod proderat urbi.

Sir, the venerable age of this great man, his merited rank, his superior eloquence, his splendid qualities, his eminent services, the vast space he fills in the eye of mankind; and, more than all the rest, his fall from power, which, like death, canonizes and sanctifies a great character, will not suffer me to censure any part of his conduct. I am afraid to flatter him; I am sure I am not disposed to blame him. Let those who have betrayed him by their adulation, insult him with their malevolence. But what I do not presume to censure, I may have leave to lament. For a wise man, he seemed to me at that time, to be governed too much by general

maxims. I speak with the freedom of history, and I hope without offence. One or two of these maxims, flowing from an opinion not the most indulgent to our unhappy species, and surely a little too general, led him into measures that were greatly mischievous to himself; and for that reason, among others, perhaps fatal to his country; measures, the effects of which, I am afraid, are for ever incurable. He made an administration, so checkered and speckled; he put together a piece of joinery, so crossly indented and whimsically dovetailed; a cabinet so variously inlaid; such a piece of diversified Mosaic; such a tessellated pavement without cement; here a bit of black stone, and there a bit of white; patriots and courtiers, king's friends and republicans; whigs and tories; treacherous friends and open enemies: that it was indeed a very curious show; but utterly unsafe to touch, and unsure to stand on. The colleagues whom he had assorted at the same boards, stared at each other, and were obliged to ask, "Sir, your name?—Sir, you have the advantage of me—Mr. Such a one—I beg a thousand pardons—" I venture to say, it did so happen, that persons had a single office divided between them, who had never spoke to each other in their lives; until they found themselves, they knew not how, pigging together, heads and points, in the same truckle-bed.*

Sir, in consequence of this arrangement, having put so much the larger part of his enemies and opposers into power, the confusion was such, that his own principles could not possibly have any effect or influence in the conduct of affairs. If ever he fell into a fit of the gout, or if any other cause withdrew him from public cares, principles directly the contrary were sure to predominate. When he had executed his plan, he had not an inch of ground to stand upon. When he had accomplished his scheme of administration, he was no longer a minister.

When his face was hid but for a moment, his whole system was on a wide sea, without chart or compass. The gentlemen, his particular friends, who, with the names of various departments of ministry, were admitted, to seem, as if they acted a part under him, with a modesty that becomes

all men, and with a confidence in him, which was justified even in its extravagance by his superior abilities, had never, in any instance, presumed upon any opinion of their own. Deprived of his guiding influence, they were whirled about, the sport of every gust, and easily driven into any port; and as those who joined with them in manning the vessel were the most directly opposite to his opinions, measures, and character, and far the most artful and most powerful of the set, they easily prevailed, so as to seize upon the vacant, unoccupied, and derelict minds of his friends; and instantly they turned the vessel wholly out of the course of his policy. As if it were to insult as well as to betray him, even long before the close of the first session of his administration, when every thing was publicly transacted, and with great parade in his name, they made an Act, declaring it highly just and expedient to raise a revenue in America. For even then, Sir, even before this splendid orb was entirely set, and while the western horizon was in a blaze with his descending glory, on the opposite quarter of the heavens arose another luminary, and, for his hour, became lord of the ascendant.

This light too is passed and set for ever. You understand, to be sure, that I speak of Charles Townshend, officially the re-producer of this fatal scheme; whom I cannot even now remember without some degree of sensibility. In truth, Sir, he was the delight and ornament of this House, and the charm of every private society which he honoured with his presence. Perhaps there never arose in this country, nor in any country, a man of a more pointed and finished wit; and (where his passions were not concerned) of a more refined, exquisite, and penetrating judgment. If he had not so great a stock, as some have had who flourished formerly, of knowledge long treasured up, he knew better by far, than any man I ever was acquainted with, how to bring together within a short time, all that was necessary to establish, to illustrate, and to decorate that side of the question he supported. He stated his matter skilfully and powerfully. He particularly excelled in a most luminous explanation, and display of his subject. His style of argument was neither trite and vulgar, nor subtle and abstruse. He hit the House just between wind and water.—And not being troubled with too anxious a zeal for any matter in question, he was never more tedious, or

* Supposed to allude to the right hon. lord North, and George Cooke, esq. who were made joint paymasters in the summer of 1766, on the removals of the Rockingham administration.

more earnest, than the pre-conceived opinions, and present temper of his hearers required; to whom he was always in perfect unison. He conformed exactly to the temper of the House; and he seemed to guide, because he was always sure to follow it.

I beg pardon, Sir, if when I speak of this and of other great men, I appear to digress in saying something of their characters. In this eventful history of the revolutions of America, the characters of such men are of much importance. Great men are the guide-posts and land-marks in the state. The credit of such men at court, or in the nation, is the sole cause of all the public measures. It would be an invidious thing, (most foreign I trust to what you think my disposition) to remark the errors into which the authority of great names has brought the nation, without doing justice at the same time to the great qualities, whence that authority arose. The subject is instructive to those who wish to form themselves on whatever of excellence has gone before them. There are many young members in the House (such of late has been the rapid succession of public men) who never saw that prodigy Charles Townshend; nor of course know what a ferment he was able to excite in every thing by the violent ebullition of his mixed virtues and failings. For failings he had undoubtedly—many of us remember them; we are this day considering the effect of them. But he had no failings which were not owing to a noble cause; to an ardent, generous, perhaps an immoderate passion for fame; a passion which is the instinct of all great souls. He worshipped that goddess wheresoever she appeared; but he paid his particular devotions to her in her favourite habitation, in her chosen temple, the House of Commons. Besides the characters of the individuals that compose our body, it is impossible, Mr. Speaker, not to observe, that this House has a collective character of its own. That character too, however imperfect, is not unamiable. Like all great public collections of men, you possess a marked love of virtue, and an abhorrence of vice. But among vices, there is none, which the House abhors in the same degree with obstinacy. Obstinacy, Sir, is certainly a great vice; and in the changeful state of political affairs it is frequently the cause of great mischief. It happens, however, very unfortunately, that almost the whole line of the great and mas-

culine virtues, constancy, gravity, magnanimity, fortitude, fidelity, and firmness, are closely allied to this disagreeable quality, of which you have so just an abhorrence; and in their excess, all these virtues very easily fall into it. He, who paid such a punctilious attention to all your feelings, certainly took care not to shock them by that vice which is the most disgusting to you.

That fear of displeasing those who ought most to be pleased, betrayed him sometimes into the other extreme. He had voted, and in the year 1765, had been an advocate for the Stamp Act. Things and the disposition of men's minds were changed. In short, the Stamp Act began to be no favourite in this House. He therefore attended at the private meeting, in which the resolutions moved by a right hon. gentleman were settled; resolutions leading to the repeal. The next day he voted for that repeal; and he would have spoken for it too, if an illness, (not as was then given out a political) but to my knowledge, a very real illness, had not prevented it.

The very next session, as the fashion of this world passeth away, the repeal began to be in as bad an odour in this House as the Stamp Act had been in the session before. To conform to the temper which began to prevail, and to prevail mostly amongst those most in power, he declared very early in the winter, that a revenue must be had out of America. Instantly he was tied down to his engagements by some, who had no objection to such experiments, when made at the cost of persons for whom they had no particular regard. The whole body of courtiers drove him onward. They always talked as if the King stood in a sort of humiliated state, until something of the kind should be done.

Here this extraordinary man, then Chancellor of the Exchequer, found himself in great straits. To please universally was the object of his life; but to tax and to please, no more than to love and to be wise, is not given to men. However he attempted it. To render the tax palatable to the partizans of American revenue, he made a preamble stating the necessity of such a revenue. To close with the American distinction, this revenue was external or port-duty; but again, to soften it to the other party, it was a duty of supply. To gratify the colonists, it was laid on British manufactures; to satisfy the mer-

chants of Britain, the duty was trivial, and (except that on tea, which touched only the devoted East India Company) on none of the grand objects of commerce. To counterwork the American contraband, the duty on tea was reduced from a shilling to three-pence. But to secure the favour of those who would tax America, the scene of collection was changed, and, with the rest, it was levied in the colonies. What need I say more? This fine-spun scheme had the usual fate of all exquisite policy. But the original plan of the duties, and the mode of executing that plan, both arose singly and solely from a love of our applause. He was truly the child of the House. He never thought, did, or said any thing but with a view to you. He every day adapted himself to your disposition; and adjusted himself before it, as at a looking-glass.

He had observed (indeed it could not escape him) that several persons, infinitely his inferiors in all respects, had formerly rendered themselves considerable in this House by one method alone. There were a race of men (I hope in God the species is extinct) who, when they rose in their place, no man living could divine, from any known adherence to parties, to opinions, or to principles; from any order or system in their politics; or from any sequel or connection in their ideas, what part they were going to take in any debate. It is astonishing how much this uncertainty, especially at critical times, called the attention of all parties on such men. All eyes were fixed on them, all ears open to hear them; each party gaped, and looked alternately for their vote almost to the end of their speeches. While the House hung in this uncertainty, now the Hear-hims rose from this side—now they re-bellowed from the other; and that party to whom they fell at length from their tremulous and dancing balance, always received them in a tempest of applause. The fortune of such men was a temptation too great to be resisted by one, to whom, a single whiff of incense withheld gave much greater pain, than he received delight, in the clouds of it, which daily rose about him from the prodigal superstition of innumerable admirers. He was a candidate for contradictory honours; and his great aim was to make those agree in admiration of him who never agreed in any thing else.

Hence arose this unfortunate Act, the subject of this day's debate; from a dis-

position which after making an American revenue to please one, repealed it to please others, and again revived it in hopes of pleasing a third, and of catching something in the ideas of all.

This revenue Act of 1767, formed the fourth period of American policy. How we have fared since then—what woeful variety of schemes have been adopted; what enforcing, and what repealing; what bullying, and what submitting; what doing, and undoing; what straining, and what relaxing; what assemblies dissolved for not obeying, and called again without obedience; what troops sent out to quell resistance, and on meeting that resistance, recalled; what shiftings, and changes, and jumbings of all kinds of men at home, which left no possibility of order, consistency, vigour, or even so much as a decent unity of colour in any one public measure.—It is a tedious, irksome task. My duty may call me to open it out some other time; on a former occasion * I tried your temper on a part of it; for the present I shall forbear.

After all these changes and agitations, your immediate situation upon the question on your paper is at length brought to this. You have an act of parliament, stating, that “it is expedient to raise a revenue in America.” By a partial repeal you annihilated the greatest part of that revenue, which this preamble declares to be so expedient. You have substituted no other in the place of it. A secretary of state has disclaimed, in the King's name, all thoughts of such a substitution in future. The principle of this disclaimer goes to what has been left, as well as what has been repealed. The tax, which lingers after its companions, (under a preamble declaring an American revenue expedient, and for the sole purpose of supporting the theory of that preamble) militates with the assurance authentically conveyed to the colonies; and is an exhaustless source of jealousy and animosity. On this state which I take to be a fair one; not being able to discern any grounds of honour, advantage, peace, or power, for adhering, either to the Act, or to the preamble, I shall vote for the question which leads to the repeal of both.

If you do not fall in with this motion, then secure something to fight for, consis-

* For the Debate on the Resolutions moved by Mr. Burke, May 8, 1770, relating to the Disorders in North America, see Vol. 16, p. 1001.

tent in theory and valuable in practice. If you must employ your strength, employ it to uphold you in some honourable right, or some profitable wrong. If you are apprehensive that the concession recommended to you, though proper, should be a means of drawing on you further but unreasonable claims, why then employ your force in supporting that reasonable concession against those unreasonable demands. You will employ it with more grace; with better effect; and with great probable concurrence of all the quiet and rational people in the provinces; who are now united with, and hurried away by, the violent; having indeed, different dispositions, but a common interest. If you apprehend that on a concession you shall be pushed by metaphysical process to the extreme lines, and argued out of your whole authority, my advice is this: when you have recovered your old, your strong, your tenable position, then face about—stop short—do nothing more—reason not at all—oppose the ancient policy and practice of the empire, as a rampart against the speculations of innovators on both sides of the question; and you will stand on great, manly, and sure ground. On this solid basis fix your machines, and they will draw worlds towards you.

Your ministers, in their own and his Majesty's name, have already adopted the American distinction of internal and external duties. It is a distinction, whatever merit it may have, that was originally moved by the Americans themselves; and I think they will acquiesce in it, if they are not pushed with too much logic and too little sense, in all the consequences. That is, if external taxation be understood, as they and you understand it when you please, to be not a distinction of geography, but of policy; that it is a power for regulating trade, and not for supporting establishments. The distinction, which is as nothing with regard to right, is of most weighty consideration in practice. Recover your old ground, and your old tranquillity—try it—I am persuaded the Americans will compromise with you. When confidence is once restored, the odious and suspicious *summum jus* will perish of course. The spirit of practicability, of moderation, and mutual convenience, will never call in geometrical exactness as the arbitrator of an amicable settlement. Consult and follow your experience. Let not the long story with which I have exercised your patience prove fruitless to your interests.

For my part, I should choose (if I could have my wish) that the proposition of the hon. gentleman (Mr. Fuller) for the repeal could go to America without the attendance of the penal bills. Alone I could almost answer for its success. I cannot be certain of its reception in the bad company it may keep. In such heterogeneous assortments, the most innocent person will lose the effect of his innocence. Though you should send out this angel of peace, yet you are sending out a destroying angel too: and what would be the effect of the conflict of these two adverse spirits, or which would predominate in the end, is what I dare not say; whether the lenient measures would cause American passion to subside, or the severe would increase its fury—All this is in the hand of Providence; yet now, even now, I should confide in the prevailing virtue, and efficacious operation of lenity, though working in darkness, and in chaos, in the midst of all this unnatural and turbid combination. I should hope it might produce order and beauty in the end.

Let us, Sir, embrace some system or other before we end this session. Do you mean to tax America, and to draw a productive revenue from thence? If you do, speak out; name, fix, ascertain this revenue; settle its quantity; define its objects; provide for its collection; and then fight when you have something to fight for. If you murder—rob! If you kill, take possession; and do not appear in the character of madmen, as well as assassins, violent, vindictive, bloody, and tyrannical, without an object. But may better counsels guide you!

Again, and again, revert to your old principles—seek peace and ensue it—leave America, if she has taxable matter in her, to tax herself. I am not here going into the distinctions of right, nor attempting to mark their boundaries. I do not enter these metaphysical distinctions; I hate the very sound of them. Leave the Americans as they anciently stood, and these distinctions, born of our unhappy contest, will die along with it. They, and we, and their and our ancestors, have been happy under that system. Let the memory of all actions, in contradiction to that good old mode, on both sides, be extinguished for ever. Be content to bind America by laws of trade; you have always done it. Let this be your reason for binding their trade. Do not burthen them by taxes; you were not used to do so from the be-

ginning. Let this be your reason for not taxing. These are the arguments of states and kingdoms. Leave the rest to the schools; for there only they may be discussed with safety. But if intemperately, unwisely, fatally, you sophisticate and poison the very source of government, by urging subtle deductions, and consequences odious to those you govern, from the unlimited and illimitable nature of supreme sovereignty, you will teach them by these means to call that sovereignty itself in question. When you drive him hard, the boar will surely turn upon the hunters. If that sovereignty and their freedom cannot be reconciled, which will they take? They will cast your sovereignty in your face. No body will be argued into slavery. Sir, let the gentlemen on the other side call forth all their ability; let the best of them get up, and tell me, what one character of liberty the Americans have, and what one brand of slavery they are free from, if they are bound in their property and industry, by all the restraints you can imagine on commerce, and at the same time are made pack-horses of every tax you choose to impose, without the least share in granting them? When they bear the burthens of unlimited monopoly, will you bring them to bear the burthens of unlimited revenue too? The Englishman in America will feel that this is slavery—that it is legal slavery, will be no compensation, either to his feelings or his understanding.

A noble lord,* who spoke some time ago, is full of the fire of ingenuous youth; and when he has modelled the ideas of a lively imagination by further experience, he will be an ornament to his country in either House. He has said, that the Americans are our children; and how can they revolt against their parent? He says, that if they are not free in their present state, England is not free; because Manchester, and other considerable places, are not represented. So then, because some towns in England are not represented, America is to have no representative at all. They are “our children;” but when children ask for bread, we are not to give a stone. Is it because the natural resistance of things, and the various mutations of time, hinders our government, or any scheme of government, from being any more than a sort of approximation to the right, is it

therefore that the colonies are to recede from it infinitely? When this child of ours wishes to assimilate to its parent, and to reflect with a true filial resemblance the beauteous countenance of British liberty; are we to turn to them the shameful parts of our constitution? Are we to give them our weakness for their strength; our opprobrium for their glory; and the slough of slavery, which we are not able to work off, to serve them for their freedom?

If this be the case, ask yourselves this question, will they be content in such a state of slavery? If not, look to the consequences. Reflect how you are to govern a people, who think they ought to be free, and think they are not. Your scheme yields no revenue; it yields nothing but discontent, disorder, disobedience; and such is the state of America, that after wading up to your eyes in blood you could only end just where you begun; that is, to tax where no revenue is to be found, to—my voice fails me; my inclination indeed carries me no further—all is confusion beyond it.

Well, Sir, I have recovered a little, and before I sit down I must say something to another point with which gentlemen urge us. What is to become of the Declaratory Act asserting the entireness of British legislative authority, if we abandon the practice of taxation?

For my part I look upon the rights stated in that Act, exactly in the manner in which I viewed them on its very first proposition, and which I have often taken the liberty, with great humility, to lay before you. I look, I say, on the imperial rights of Great Britain, and the privileges which the colonists ought to enjoy under these rights, to be just the most reconcileable things in the world. The parliament of Great Britain sits at the head of her extensive empire in two capacities: one as the local legislature of this island, providing for all things at home, immediately, and by no other instrument than the executive power.—The other, and I think her nobler capacity is what I call her imperial character; in which, as from the throne of heaven, she superintends all the several inferior legislatures, and guides, and controls them all without annihilating any. As all these provincial legislatures are only co-ordinate to each other, they ought all to be subordinate to her; else they can neither preserve mutual peace, nor hope for mutual justice, nor effectually afford mutual assistance. It is necessary

* Lord Carmarthen, afterwards Duke of Leeds.

to coerce the negligent, to restrain the violent, and to aid the weak and deficient, by the over-ruling plenitude of her power. She is never to intrude into the place of the others, whilst they are equal to the common ends of their institution. But in order to enable parliament to answer all these ends of provident and beneficent superintendence, her powers must be boundless. The gentlemen who think the powers of parliament limited, may please themselves to talk of requisitions. But suppose the requisitions are not obeyed? What! Shall there be no reserved power in the empire, to supply a deficiency which may weaken, divide, and dissipate the whole? We are engaged in war—the Secretary of State calls upon the colonies to contribute—some would do it, I think most would cheerfully furnish whatever is demanded—one or two, suppose, hang back, and easing themselves, let the stress of the draught lie on the others—surely it is proper, that some authority might legally say—“Tax yourselves for the common supply, or parliament will do it for you.” This backwardness was, as I am told, actually the case of Pennsylvania for some short time towards the beginning of the last war, owing to some internal dissensions in the colony. But, whether the fact were so, or otherwise, the case is equally to be provided for by a competent sovereign power. But then this ought to be no ordinary power; nor ever used in the first instance. This is what I meant, when I have said at various times, that I consider the power of taxing in parliament as an instrument of empire, and not as a means of supply.

Such, Sir, is my idea of the constitution of the British empire, as distinguished from the constitution of Britain; and on these grounds I think subordination and liberty may be sufficiently reconciled through the whole; whether to serve a refining speculatist, or a factious demagogue, I know not; but enough surely for the ease and happiness of man.

Sir, whilst we held this happy course, we drew more from the colonies than all the impotent violence of despotism ever could extort from them. We did this abundantly in the last war. It has never been once denied—and what reason have we to imagine that the colonies would not have proceeded in supplying government as liberally, if you had not stepped in and hindered them from contributing, by interrupting the channel in which their li-

berality flowed with so strong a course; by attempting to take, instead of being satisfied to receive. Sir William Temple says, that Holland has loaded itself with ten times the impositions which it revolted from Spain, rather than submit to. He says true. Tyranny is a poor provider. It knows neither how to accumulate, nor how to extract.

I charge therefore to this new and unfortunate system the loss not only of peace, of union, and of commerce, but even of revenue, which its friends are contending for.—It is morally certain, that we have lost at least a million of free grants since the peace. I think we have lost a great deal more; and that those who look for a revenue from the provinces, never could have pursued, even in that light, a course more directly repugnant to their purposes.

Now, Sir, I trust I have shewn, first on that narrow ground which the hon. gentleman measured, that you are like to lose nothing by complying with the motion, except what you have lost already. I have shewn afterwards, that in time of peace you flourished in commerce, and when war required it, had sufficient aid from the colonies, while you pursued your antient policy; that you threw every thing into confusion when you made the Stamp Act; and that you restored every thing to peace and order when you repealed it. I have shewn that the revival of the system of taxation has produced the very worst effects; and that the partial repeal has produced, not partial good, but universal evil. Let these considerations, founded on facts, not one of which can be denied, bring us back to your reason by the road of your experience.

I cannot, as I have said, answer for mixed measures; but surely this mixture of lenity would give the whole a better chance of success. When you once regain confidence, the way will be clear before you. Then you may enforce the Act of Navigation when it ought to be enforced. You will yourselves open it where it ought still further to be opened. Proceed in what you do, whatever you do, from policy, and not from rancour. Let us act like men, let us act like statesmen. Let us hold some sort of consistent conduct.—It is agreed that a revenue is not to be had in America. If we lose the profit, let us get rid of the odium.

On this business of America I confess I am serious, even to sadness. I have had

but one opinion concerning it since I sat, and before I sat, in parliament. The noble lord (North) will, as usual, probably, attribute the part taken by me and my friends in this business, to a desire of getting his places. Let him enjoy this happy and original idea. If I deprived him of it, I should take away most of his wit, and all his argument. But I had rather bear the brunt of all his wit, and indeed blows much heavier, than stand answerable to God for embracing a system that tends to the destruction of some of the very best and fairest of his works. But I know the map of England, as well as the noble lord, or as any other person; and I know that the way I take is not the road to preferment. My excellent and honourable friend under me on the floor, (Mr. Dowdeswell) has trod that road with great toil for upwards of twenty years together. He is not yet arrived at the noble lord's destination. However, the tracks of my worthy friend are those I have ever wished to follow; because I know they lead to honour. Long may we tread the same road together; whoever may accompany us, or whoever may laugh at us on our journey! I honestly and solemnly declare, I have in all seasons adhered to the system of 1766, for no other reason, than that I think it laid deep in your truest interests—and that, by limiting the exercise, it fixes on the firmest foundations, a real, consistent, well-grounded authority in parliament. Until you come back to that system, there will be no peace for England.

Mr. Solicitor General *Wedderburn*. I am not willing to trouble the House long upon this occasion, as it is impossible to say any thing that has not been touched on before; but I cannot accede to the characters the hon. gentleman has given; I differ much from him in the character of that great man, the late Mr. Grenville, of whom I shall always speak with veneration; but I cannot, Sir, help thinking, that if you repeal this Act, the Americans will consider you weak in the highest degree, and receive it in the same manner as if you had done it through fear. The disposition to deny your authority in America, was long before the passing or repealing the Stamp Act. The assembly address the council, how an act of the legislature came to be enrolled in their statute book, not assented to by them. Was this not a flagrant instance of their rebellious disposition? They consider all the

Acts that restrain trade as illegal, and they want to treat with you upon an independent footing; but if you give up this tax, it is not here that you must stop, you will be required to give up much more, nay, to give up all. Much has been said about requisition; but I wish gentlemen would consider how, and in what manner the ministers of this country, treating with the assemblies of America, are to raise the money without the aid of their legislature.

Mr. *Burke* rose to explain, that he did not mean to cast the least slur upon the character of the late Mr. Grenville; and concluded with saying, he would not raise the bodies of the dead, to make them vampires to suck out the virtues of the living.

Mr. *Charles Fox*. Let us consider, Sir, what is the state America appears in to this country; the Americans will appear as useful subjects, if you use them with that temper and lenity which you ought to do. When the Stamp Act was repealed, murmurs ceased, and quiet succeeded. Taxes have produced a contrary behaviour; they have been succeeded by riots and disturbances. Here is an absolute dereliction of the authority of this country. It has been said, that America is not represented here, but virtually the Americans are full as virtually taxed, as virtually represented. A tax can only be laid for three purposes; the first for a commercial regulation, the second for a revenue, and the third for asserting your right. As to the two first, it has clearly been denied it is for either; as to the latter, it is only done with a view to irritate and declare war there, which, if you persist in, I am clearly of opinion you will effect, or force into open rebellion.

Lord *Beauchamp*. Sir, I should not intrude at this late hour of the night, did I not wish to express my thoughts, that the Americans are not contending for the mode of taxation, but the right. Some years ago, when this Act was passed, combinations took place, in order to oppose that authority which you wish to exert. Measures are now adopted to induce them to consent to this Act, not by force, but by means which I hope will bring them to a sense of their duty. Had this repeal been proposed some sessions ago, I should most probably have adopted it; but the present disturbances in America totally prevent my giving my consent to it. I think it impracticable to repeal it, because we give up our right; and I am not pre-

pared to say, that at no future moment I would tax America. There may be times when the necessity of supplying the exigencies of this country may demand that aid; and therefore I would exert our authority now by a practicable claim of right, which I hope will not hereafter be disputed.

General Burgoyne. Sir, I look upon America to be our child, which I think we have already spoiled by too much indulgence. We are desirous to conciliate measures with the Americans; I look upon this measure to have a totally different effect; I think it a misuse of time to go into a committee, and that even the enquiry, the news of which will soon reach America, will tend to nothing but to raise heats, and not appease, but irritate and disturb the more. It is said, if you remove this duty, you will remove all grievances in America; but I am apprehensive that it is the right of taxation they contend about, and not the tax; it is the independent state of that country upon the legislature of this, which is contended for; but, Sir, I am ready to resist that proposition, and to contend, at any future time, against such independence. I will not enter into the characters of people, nor will I call the great person who planned these measures a cherubim, seraphim, or arch-angel; but, as a man, I believe he has a good head and an honest heart.—

[The House here seemed very noisy, and did not attend.] He therefore sat down, concluding, that he wished to see America convinced by persuasion rather than the sword.

Mr. T. Townshend. Sir, I wish much to go into a committee upon this occasion, because the tea duty, as an object of revenue, is unworthy your consideration; but it is an object which, when once removed from the Americans, will give ease and satisfaction to their minds; and it is preserved by you merely to keep up a continual contest. I will not go back to the ground of arguments which has been so often trod, and which I wish had not been brought forth as the ground of former proceedings, mixing them with the present. I shall look upon this committee, if granted, as the prelude to that peace which you want to restore to America, and shall therefore give my hearty affirmative.

Lord Clare. Every man who has spoken on this occasion, has prudently avoided going into any thing that gave rise to the original taxation. I am sorry

to find that there is even a negative voice against continuing this tax; but as I find there is dissention upon the occasion, it will give room to the Americans to say that the question was much debated, and far from being unanimous; they will upon that account, hold resistance to the measure to be a good ground for some time or other producing a repeal. I could have wished to have seen the House nearly unanimous against the motion, as I am afraid our differences here will countenance resistance there. What, Sir, would they have us surrender the right of Great Britain? It is impossible, in the nature of things, that he can carry this question; and instead of my hon. friend (Mr. Fuller) wishing to restore peace and quietude, he will find he is whetting his sword that it may cut with a keener edge.

Mr. Buller. Sir, I would treat the Americans as subjects of Great Britain, and think them liable to be taxed as well as any others. I am afraid that all these disturbances have been owing to a change of measures in this country. I think a repeal of this Act will have a bad effect, and you will not know where it will end.

Mr. Frederick Montagu. Sir, I feel a strong inclination to trouble the House on this occasion. There must be one supreme right of taxing, I allow, but I think it inexpedient at present to exercise it, and that the only proper way of taxing of America, is through the medium of commerce, and not by hard money. If this motion is rejected, I do not think it will carry the appearance as if we meant to be pacific.

Colonel Barré. I have spoken, Sir, fully on this affair, in what I have said at different times before, and it is impossible to tread the same ground, and to make it pleasant to the same hearers. It has been said that millions have been collected from this country for the use of America; but it ought to be considered, that the stroke of war has been given in many of his Majesty's dominions, sometimes necessary in one, sometimes in another, and wherever an injury has been struck, there Great Britain resents it. This tax has been said to be not a fruitful one; I think it a very fruitful one, for it has produced riots and disturbances; it has been resisted, it has done its duty, let us dismiss it. I have been much quoted for requisitions; if you will make them with some address, they will comply. I have been also quoted for the olive branch; I say, you have let slip

several millions in the East, and now look for a revenue from a pepper-corn in the West. This you will have to lay to your charge, that you will whet your swords in the bowels of your own subjects, and massacre many of your fellow-creatures, who do not know under what constitution of government they live, by enforcing this tax. You will at last resort to that romantic idea of requisition.—The House was very noisy, and did not give much attention to him, which prevented him from speaking, as he had usually done.

Lord North said, he was ashamed to take up the time of the House at that late hour of the night, and the more so, as what he had to say chiefly related to himself. He gave an account of the letter which Mr. Burke had read from lord Hillsborough to the Americans, and stated the matter of its contents in the best light he could. His lordship said, this letter of concession was far from quieting the minds of the Americans; that they were guilty of all riots and disturbances; that the non-importation agreement was as impudent and futile a measure as ever existed; and he was glad he did not, at that time, propose the repeal of that tax, when all the resolutions of the town-meetings denied the authority of this country. Nothing but wisdom on our side, and prudence on theirs, can bring them to a better temper. The tea tax is not an inconsiderable revenue. Convince your colonies that you are able, and not afraid to controul them, and depend upon it, obedience will be the result of your deliberation; let us conduct ourselves with firmness and resolution throughout the whole of these measures, and there is not the least doubt but peace and quietude will soon be restored.

Mr. Dowdeswell. I wish the noble lord would consider what will be the result of these measures. I apprehend the consequences will be dangerous. We are now in great difficulties; let us resolve to do justice, before it is too late.

The House, at twenty minutes past eleven, divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Frederick Montagu	} 49
	{ Mr. Byng - - - -	
NOES	{ Mr. Charles Townshend	} 182
	{ Mr. Cooper - - - -	

So it passed in the negative.

Debate in the Commons on the Bill for the impartial Administration of Justice in

Massachuset's Bay.] April 21. Lord North presented the Bill, "For the impartial administration of justice in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults, in the province of Massachuset's Bay, in New England." The Bill was read a first time; upon which,

Mr. Sawbridge rose, saying, Sir, I am astonished at the noble lord's proceeding, in bringing in a Bill of the utmost consequence, at a time when there is so thin a House. [There were only forty-one members.] It is an improper time; it is taking us by surprize; it is cowardly. But, Sir, I should think myself highly unworthy a seat in this assembly, were I to suffer so pernicious a Bill to pass in any stage, without giving my hearty negative to it. I will oppose it every time I have an opportunity, although I do not imagine I shall be much attended to. This is a Bill, Sir, of such a ridiculous and cruel nature, that I really am astonished how any person could think of making it. Does the noble lord think that a man who chances to see a person murdered in America, will come over here as an evidence against the aggressor? Does the noble lord think that any American would hazard a trial here, or that he would expect to have justice done him, if he was to come over? Then, Sir, a person would be brought over here to be tried, and you would have evidences only on one side; but I imagine if those evidences should not be sufficient, evidence here, who never saw the transaction, would be procured, and the criminal acquitted. I plainly foresee the dangerous consequences of this Bill; it is meant to enslave America; and the same minister who means to enslave them, would, if he had an opportunity, enslave England; it is his aim, and what he wishes to do; but I sincerely hope the Americans will not admit of the execution of these destructive Bills, but nobly refuse them; if they do not, they are the most abject slaves that ever the earth produced, and nothing that the minister can do is base enough for them.

Lord North. Sir, I think myself called upon to vindicate my conduct for bringing in the Bill in so thin a House. Sir, was I to know there would be few members attend? I did as I promised I would do, which was, to bring in the Bill as soon as it was ready; it was but just finished when I brought it, and I little expected to

have any debate upon it in this stage: I thought, Sir, the debate would be upon the second reading; it usually is so; and I sincerely hope when this Bill is read a second time, that we shall have a very full House, and that every gentleman will give his opinion upon it. I wish to have it thoroughly discussed, and if it should be found to be a bad Bill, in God's name throw it out; but if otherwise, you cannot be too unanimous in assenting to it; the more unanimity there is, the stronger effect it will have. As to its being meant to enslave America, I deny it, I have no such intention; it is an unpleasant, but necessary step to bring them to a sense of their duty; that assertion has much the same truth in it as what has been before said, that the Americans had seen their error, and were willing to satisfy the East India Company. Sir, there is a ship arrived, I think her name is the *Fortune*, captain Goreham; she arrived in Boston harbour the latter end of February, or beginning of March 1774, I cannot say which; she was loaded with tea; the inhabitants came immediately and unloaded her, and emptied the contents of her cargo into the sea. Is this, Sir, seeing their error? Is this, Sir, reforming? Is this making restitution to the East India Company? Surely no gentleman will, after this, urge any thing in their defence. The hon. gentleman has said this Bill is a pernicious one; I trust, when gentlemen come to consider it, they will see it quite otherwise.

Sir *Thomas Frankland* rose only to acquaint the House, that he, yesterday afternoon, after the House broke up, was shewn a letter which a friend of his had received from Boston, dated March 1774, which mentioned the tea being destroyed, which was the cargo of captain Goreham, as the noble lord had mentioned.

Mr. *Byng*. Sir, I cannot help rising to oppose this Bill. I agree with my worthy friend, that it is a most pernicious Bill, and, I fear, made with no good intention. I really am surprised at the noble lord, who said, his wish was to make the laws in America as near as possible to our own. Is this Bill any thing like it? No, it is quite the reverse; dragging people from one country to another to give evidence, is such a proposition as I never heard before, nor could have thought of; but, Sir, every person must know, and will allow, that the noble lord finds his other two Bills are so defective and dan-

gerous, that no person will venture to put them into execution; he is therefore obliged to have recourse to a third, to indemnify such persons as shall be concerned in executing his destructive project. I shall oppose this Bill every time I have an opportunity, and I trust every lover of his country will do the same. He further said, that whatever professions of candour were thrown out, he should trust to them with great caution; that for his part these attacks made abroad, seemed to be intended to prepare men's minds for measures of a similar nature to be enforced at home; and that the conduct and complexion of public measures in general wore the appearance of a systematic design of enslaving the people, as well in Great Britain as the colonies.

Lord *Beauchamp*. I really am surprised, Sir, to hear an hon. gentleman say, that every person must know that the two former Bills are defective. Sir, I will venture to say the fact is otherwise; every person must allow they are necessary for the preservation of peace, and restoring the Americans to a sense of their duty. Does the hon. gentleman think the soldiery at Boston will act without they are indemnified? No; they could not. No person would execute the laws half so well, was this Bill not to pass. I think it a necessary Bill; it will make their trials by juries like ours, which are so much approved of; and I shall give my hearty affirmative to it.

Mr. *Sawbridge*. Sir, I rise to explain to the noble lord why I think it a pernicious Bill. I am certain, that however willing I might be to bring an offender to justice, was I to see a murder committed in London, my love of justice might induce me to go to any part of the country to appear as an evidence; but I assure the noble lord I would not go over to America on any account, nor for any mandate that he could issue; and I believe that the noble lord will allow, that not any sum would induce him to go over now; therefore we have the same right to imagine, that people in America will not come over here. I make no doubt but government will take care to bring over evidence in support of their side, but they will not trouble themselves with evidence on the contrary; therefore all your trials will be *ex parte*, and nothing but a mockery of justice. I do not mention this as an advocate for America, but mention it as an Englishman.

The question was then put, and carried, that the Bill be read a second time on the 25th.

Further Debates in the Commons on the Bill for regulating the Government of Massachusetts Bay.] April 22. On the motion for the second reading of this Bill,

Mr. Fuller said, he did not rise to make any debate, for he was not enabled as yet to form any opinion whether the Bill before the House was a proper one or not; as copies of the charters which had been ordered before the House were not yet laid, he would venture to say, that no man knew the constitution of that government; it was therefore impossible for him to say, in what manner he would correct and amend it.

Sir George Savile said, he had not troubled the House before on the occasion, but he could not help observing, that the measure now before the House was a very doubtful and dangerous one; doubtful as to the matter and propriety of regulation, and dangerous as to its consequence; that charters by government were sacred things, and are only to be taken away by a due course of law, either as a punishment for an offence, or for a breach of the contract, and that can only be by evidence of the facts; nor could he conceive that in either of those cases there could be any such thing as proceeding without a fair hearing of both parties. This measure before us seems to be a most extraordinary exertion of legislative power. Let us suppose a lease granted to a man, wherein was a covenant, the breach of which would subject him to a forfeiture of his lease—would not a court of justice require evidence of the fact? Why, then, will you proceed different from the line which is always observed in courts of justice? You are now going to alter the charter, because it is convenient. In what manner does the House mean to take away this charter, when in fact they refuse to hear the parties, or to go through a legal course of evidence of the facts? Chartered rights have, at all times, when attempted to be altered, or taken away, occasioned much bloodshed and strife; and whatever persons in this House may have advanced, that they do not proceed upon this business but with trembling hands, I do also assure them that I have shewn my fears upon this occasion, for I have run away from every question, except one, to which I gave my negative. I do not like to be present at a business which I think incon-

sistent with the dignity and justice of this House; I tremble when I am, for fear of the consequences; and I think it a little extraordinary, that Mr. Bollan should be admitted to be heard as an American agent in the House of Lords, when in the House of Commons he was refused. I believe it is true, that the facts set forth in his petition to this House, were different from those which he presented to the House of Lords, in one declaring himself an inhabitant of Boston, and in the other omitting it. I cannot conceive it possible to proceed on this Bill upon the small ground of evidence which you have had.

Mr. Welbore Ellis. I must rise, Sir, with great diffidence, when I differ from the hon. gentleman who spoke last, whose abilities are so eminently great; but I think, that chartered rights are by no means those sacred things which never can or ought to be altered; they are vested in the crown, as a prerogative, for the good of the people at large; if the supreme legislature find that those charters so granted are both unfit and inconvenient for the public utility, they have a right to make them fit and convenient: wherever private property is concerned, the legislature will not take it away without making a full recompence; but wherever the regulation of public matter is the object, they have a right to correct, controul, or take it away, as may best suit the public welfare. The crown may sometimes grant improper powers with regard to governments that are to be established—will it not be highly proper and necessary that the legislature, seeing in what manner the crown has been ill-advised, should take it into their consideration, and alter it as far as necessary? It is the legislature's duty to correct the errors that have been established in the infancy of that constitution, and regulate them for the public welfare. Is a charter, not consistent with the public good, to be continued? The hon. gentleman says, much bloodshed has been occasioned by taking away or altering of chartered rights; I grant it; but it has always been where encroachments have been made by improper parties, and the attack has been carried on by improper powers. He also says, this form of government in America ought to be altered without hearing the parties; the papers on your table, surely, are sufficient evidence what they have to say in their defence;—look only into the letter dated the 19th of November, 1773, wherein the governor applied to the

council for advice, and they neglected giving it to him : and also wherein a petition was presented to the council by certain persons who applied for protection to their property during these disturbances ; the council, without giving any answer, adjourned for ten days, and the governor was not able to do any thing himself without their opinion. Look again, Sir, into the resolution which the council came to when they met again, stating the total insufficiency of their power. This, surely, Sir, is an evidence competent to ground this Bill upon. We have now got no farther than just to alter these two parts, as stated by themselves. Surely, Sir, that form of government which will not protect your property, ought to be altered in such a manner as it may be able to do it.

General Conway. What I intend to say will not delay the House long. [The House being rather noisy, the general said, I beg leave once more to say a short word.] I am very sure what I intend to say will little deserve the attention of the House, but the subject is of that importance, that it requires it. The consequence of this Bill will be very important and dangerous. Parliament cannot break into a right without hearing the parties. The question, then, is simply this : have they been heard ? What ! because the papers say a murder has been committed, does it follow they have proved it ? ‘ *Audi alteram partem* ’ is a maxim I have long adhered to ; but it is something so inconsistent with parliamentary proceedings not to do it, that I am astonished at it. The council are blamed, because they did not give that advice to the governor which he wanted. I think, Sir, the governor might have acted alone, without their assistance. Gentlemen will consider that this is not only the charter of Boston, or of any particular part, but the charter of all America. Are the Americans not to be heard ? Do they not choose to consent and agree about appointing an agent ? I think there is no harm, upon this occasion, in stretching a point ; and I would rather hear Mr. Bollen as an agent of America (though he is a little irregular in his appointment) sooner than leave it to be said, that this Bill passed without it.—The House being vociferous, he said, I am afraid I tire the House with my weak voice ; if that is the case, I will not proceed, but I do think, and it is my sincere opinion, that we are the aggressors and innovators, and not the colonies. We have irritated and forced laws upon them for

these six or seven years last past. We have enacted such a variety of laws, with these new taxes, together with a refusal to repeal the trifling duty on tea ; all these things have served no other purpose but to distress and perplex. I think the Americans have done no more than every subject would do in an arbitrary state, where laws are imposed against their will. In my conscience, I think, taxation and legislation are in this case inconsistent. Have you not a legislative right over Ireland ? And yet no one will dare to say we have a right to tax. These acts, respecting America, will involve this country and its ministers in misfortunes, and I wish I may not add, in ruin.

Lord North. I do not consider this matter of regulation to be taking away their charters in such manner as is represented ; it is a regulation of government to assist the crown ; it appears to me not to be a matter of political expediency, but of necessity. If it does not stand upon that ground, it stands on nothing. The account which has just now been read to you is an authentic paper, transmitted to government here, shewing that the council refused, in every case, their assistance and advice ; and will this country sit still, when they see the colony proceeding against your own subjects, tarring and feathering your servants ; denying your laws and authority ; refusing every direction and advice which you send ? Are we, Sir, seeing all this, to be silent, and give the governor no support ? Gentlemen say, let the colony come to your bar and be heard in their defence ; though it is not likely that they will come, when they deny your authority in every instance. Can we remain in this situation long ? We must effectually take some measure to correct and amend the defects of that government. I have heard so many different opinions in regard to our conduct in America, I hardly know how to answer them. The hon. gentleman, who spoke last, formerly blamed the tame and insipid conduct of government ; now he condemns this measure as harsh and severe. The Americans have tarred and feathered your subjects, plundered your merchants, burnt your ships, denied all obedience to your laws and authority ; yet so clement, and so long forbearing has our conduct been, that it is incumbent on us now to take a different course. Whatever may be the consequence, we must risk something ; if we do not, all is over. The measure now pro-

posed, is nothing more than taking the election of counsellors out of the hands of those people, who are continually acting in defiance and resistance of your laws. It has also been said by gentlemen—send for the Americans to your bar—give them redress a twelvemonth hence. Surely, Sir, this cannot be the language that is to give effectual relief to America; it is not, I say again, political convenience, it is political necessity that urges this measure: if this is not the proper method, shew me any other which is preferable, and I will postpone it.

Sir George Yonge. It appears to me, Sir, that it is unanswered and unanswerable, what has been advanced by the hon. gentleman who spoke second, that the parties should be heard, though even at a twelvemonth hence. Nothing, Sir, but fatal necessity can countenance this measure. No body of men ought to be proceeded against without being heard, much less ought the regulation of a whole government to take place, without the parties attending in their defence against such alterations.

Governor Johnstone. I see, Sir, a great disposition in this House to proceed in this business without knowing any thing of the constitution of America; several inconveniencies will arise if the sheriff is to be appointed by the governor; the jury will of course be biassed by some influence or other; special juries will be most liable to this. [Here the governor gave an account of the different riots which had happened in England, and compared them with what he called the false account of those from America.] I impute, says he, all the misfortunes which have happened in America, to the taking away the power of the governor. No man of common sense, can apprehend that the governor would ever have gone for two or three days into the country during these disturbances, if he had had the command of the military power. The natural spirit of man would be fired, in such a manner, as to actuate him to shew resistance; but in this governor no power was lodged. I disapprove much of the measure which is before us, and I cannot think but its consequences will be prejudicial.

Mr. C. Jenkinson. I rise, Sir, only to observe, that if the colony has not that power within itself to maintain its own peace and order, the legislature should, and ought to have. Let me ask, Sir, whether the colony took any step, in any

[VOL. XVII.]

shape, to quell the riots and disturbances? No, they took none. Let me ask again, whether all the checks and controul that are necessary, are not put into the commission of the governments? Much has been said about hearing the parties, and taking away this chartered right; I am of opinion, that where the right is a high political regulation, you are not in that instance bound to hear them; but the hearing of parties is necessary where private property is concerned. It is not only in the late proceedings, but in all former, that they have denied your authority over them; they have refused protection to his Majesty's subjects, and in every instance disobeyed the laws of this country; either let this country forsake its trade with America, or let us give that due protection to it which safety requires.

Mr. Harris. I cannot see, Sir, any reason for so wide a separation between America and England as other gentlemen are apt to think there ought to be; that country, Sir, was hatched from this; and I hope we shall always keep it under the shadow of our wings. It has been said, no representation, no taxation. This was the system formerly adopted, but I do not find it authorized in any book of jurisprudence, nor do I deem it to be a doctrine either reasonable or constitutional. I insist upon it, they are bound to obey both the crown and parliament. The last 12 years of our proceedings have been a scene of lenity and inactivity. Let us proceed and mend our method, or else I shall believe, as an hon. gentleman has observed, that we are the aggressors.

Sir Edward Astley. If we have had a twelve years lenity and inactivity, I hope we shall not now proceed to have a twelve years cruelty and oppression. By the resolution and firmness which I perceive in the House, it seems to indicate a perseverance in the measure now proposed, which I deem to be a harsh one, and unworthy of a British legislature.

Mr. Ward found fault with the charter being left too much, as to the execution of its powers, in the people, and he could not think the legislature was doing any thing which it had not a right to do, as he had looked upon all charters to be granted with a particular clause in it, expressing that it should not be taken away but by the parliament.

Governor Pownall. Sir, the few words that I shall trouble the House with on this occasion, will be directed simply to

[4 N]

facts, and to the rectifying some matters of fact respecting the constitution of the province of Massachusetts Bay, which some gentlemen, on both sides the House, seem to me to have mistaken, and to have misstated.

As to opinions, I shall never more trouble the House with mine on the subject. While the affairs of America remained on that ground, that opinions might operate on measures of policy, I never withheld mine, poor as they may have been—I always avowed them openly and publicly.—In this House I delivered my sentiments explicitly and directly. It was my duty so to do—I considered it as of perfect obligation; and I hope I have fulfilled that duty. I could not but think it a matter of imperfect obligation, even to obtrude my sentiments, and the best information that I could give, in other places, out of this House. I hope I have not there exceeded my duty: I have expressed the same sentiments at all times, and have given the same opinion in what I have written to America—All tended to one point; the pointing out the grounds of reconciliation and peace.

The case at present ceases to be matter of opinion—it is come to action. The measure which you are pursuing will be resisted, not by force, or the effect of arms, as was said by an hon. gentleman on the late occasion, but by a regular united system of resistance.

I told this House (it is now four years past) that the people of America would resist the tax which lay then upon them—that they would not oppose power to your power, but that they would become impracticable. Have they not been so from that time to this very hour? I tell you now, that they will resist the measures now pursued, in a more vigorous way—You will find them prepared for such resistance, not by arms, but by a system of measures. The committees of correspondence in the different provinces are in constant communication—they do not trust the conveyance of the Post-office—they have set up a constitutional courier, which will soon grow up to the superseding of your Post-office. As soon as intelligence of these affairs reach them, they will judge it necessary to communicate with each other. It will be found inconvenient and ineffectual so to do by letters—they must confer. They will hold a conference—and to what these committees, thus met in congress, will grow up, I will not say.

On the other point, should matters ever come to arms, you will hear of other officers than those appointed by your governors. When matters once come to that, it will be, as it was in the late civil wars of this country, of little consequence to dispute who were the aggressors—that will be merely matter of opinion. It is of more consequence at this moment so to act—to take such measures—that no such misfortune may come into event.

I hope the House will excuse my trespassing on their patience—it is the last time that I shall speak on this subject. If, however, the knowledge which my situation must necessarily have supplied me with, can enable me to be of any use in matter of information, on any points which come before you, I shall constantly attend in my place, and in my place be ready to answer any questions on such matter, as any gentleman may wish to receive information upon, as far as I may be able to inform him; and in this light I beg leave to state, that although by the charter of the province of Massachusetts Bay the governor is obliged to take with him, not simply the advice, but the consent of the council, in the nomination of judges and other civil officers—yet it is from the power of the governor's commission held under the broad seal, that all the commissions in the province are derived; and cease with the determination of that commission. All those officers, except the attorney general, even the sheriffs, which an hon. gentleman had conceived not to be so, and which the present proposed Bill directs to be appointed and removed by the governor, are, according to the powers and privileges of the present charter, appointed by the governor in council. The difference is, that in those governments which are established by the king's patent commissions, the whole act of appointment is in the governor—which act, indeed, he is by his instructions directed to do in the act. He is the sole efficient: he may advise with the council, but he is not bound to take their consent—he is not incompetent to the act, without their consent. His commission gives him full power to act—if he acts without the advice of his council, he does indeed break through his instructions, and may incur his Majesty's displeasure; but yet the appointment is good to all intents and purposes. The first is the act of legal power derived from the commission; the second, is a matter prudential, with which the

mode of the act is properly and wisely accompanied.

In the charter under consideration, the matter of instruction was made a component part of the Act—by which the council were made a component part of the governor, and so far forth of the supreme executive magistrate. This I have always thought to be an original and radical blunder. If the Bill, as it was first proposed, had gone no farther than to the remedy of this error, I think there could not have been a reasonable objection to it—but of that I shall say no more now—I have already given my opinion on that point.

Another gentleman (misled by a construction which some governors have made of their powers) thinks that the council are so much, in all cases of government, a part of the supreme executive magistrate, that if they refuse to act with the governor, he cannot do any act of government either civil or military. I know of no Act in which they are constituted such part, but in the case of the nomination of civil officers. In every other, the governor, both by the charter and by his commission, is perfect and complete, supreme executive magistrate. I am sure I can speak from fact;—I have, as governor, without communion of power with the council, done every civil act of government, which the King, actuating the powers of the crown, does here within the realm. And as to the military, if it had been my misfortune to have been governor in these times, and if the interposition of the military had been necessary, I would not have applied to them for their aid—I would have sent them an order. I am sure there is no officer within the province would have dared to have disobeyed it. They must have obeyed. The power to give such order is, both by the charter and the commission (which are both under the broad seal), in the governor, as commander in chief; and I know of no revocation of it, but by the mere letter of a secretary of state, which could have no effect; but which was at the same time one of the most dangerous measures ever taken.

Upon this ground, supposed to be the fact, that the council are part of the executive magistrate, it is alleged as matter of crime against them, that they refused to act with the governor at the time of the late riots; by which the powers of government were suspended, the power of the

charter mis-used, so that the governor could not act: but as I have shewn that this is not the fact, the allegation of crime vanishes: yet I must own, and I must say, that as it is always for the benefit of the public that the governor should advise with, and have the advice of his council—that as it is always of benefit to government, that he should take with him and be supported by the authority of his council, and especially in this province, where the authority of the country is of more solid effect than in any other—the council, and every member of it, are highly blameable, are indeed inexcusable, whenever they refuse to advise, whenever they withhold their authority from the aid and support of government. I do not know whether they be not liable to censure in refusing their assistance, as they are by the charter expressly called assistants; but surely their conduct was inexcusable, when, instead of assisting, they sought and took occasion in the midst of these disturbances, to bring forward as an act of council, a report fraught with all the matters of contest and dispute, which were the very grounds taken as principles by the people engaged in the disturbances.—Thus far as to matter of fact; as to matter of opinion, I shall not trouble the House with it. [N. B. The few words afterwards spoken by way of explanation, were so far from signifying that the people were going to rebel, that they were expressly spoken to obviate that misapprehension of what had been said.]

Mr. Rigby. Upon my word, Sir, what was just now said is very worthy the consideration of this House; and if, from what the hon. gentleman says, it is true, and I believe he is well informed, it appears, that America is preparing to arms; and that the deliberations of their town-meetings tend chiefly to oppose the measures of this country by force. He has told you, Sir, that the Americans will appoint other officers than those sent by government to command their troops. He has told you that a post-office is established on their account from town to town, in order to carry their treacherous correspondence from one to another. He has told you, the post-office revenue will soon be annihilated. If these things are true, Sir, I find we have been the aggressors, by continually doing acts of lenity for these twelve years last past. I think, Sir, and speak out boldly when I say it, that this country has a right to tax America; but, Sir, it is matter of asto-

nishment to me, how an hon. gentleman (general Conway) can be the author or bringer in of a declaratory law over all America, and yet saying at one and the same time, that we have no right to tax America! If I were to begin to say that America should not be taxed, and that these measures were not proper, I would first desire my own declaratory law to be repealed; but being of opinion that the Americans are the subjects of this country, I will declare freely, that I think this country has a right to tax America; but I do not say I would put any new tax on at this particular crisis; but when things are returned to a peaceable state, I would then begin to exercise it. And I am free to declare my opinion, that I think we have a right to tax Ireland, if there was a necessity so to do, in order to help the mother country. If Ireland was to rebel and resist our laws, I would tax it. The mother country has an undoubted right and controul over the whole of its colonies. Again, Sir, a great deal has been said concerning requisition. Pray, in what manner is it to be obtained? Is the King to demand it? or are we, the legislative power of this country, to send a very civil, polite gentleman over to treat with their assembly? How and in what manner is he to address that assembly? Is he to tell the Speaker of it, that we have been extremely ill-used by our neighbours, the French; that they have attacked us in several quarters; that the finances of this country are in a bad state; and therefore we desire you will be kind enough to assist us, and give us some money? Is this to be the language of this country to that; and are we thus to go cap in hand? I am of opinion, that if the administration of this country had not been changed soon after the passing of the Stamp Act, that tax would have been collected with as much ease as the land-tax is in Great Britain. I have acted, with regard to America, one consistent part, and shall continue in it till I hear better reason to convince me to the contrary.

Governor *Pownall* to explain. I apprehend I have been totally misunderstood. I did not assert the Americans were now in rebellion, but that they are going to rebel; when that comes to pass, the question will be, who was the occasion of it. Something has been said relative to requisition; I think I gave several instances wherein the same had been complied with in time of war.

Mr. *Charles Fox*. I am glad to hear from the hon. gentleman who spoke last, that now is not the time to tax America: that the only time for that is, when all these disturbances are quelled, and they are returned to their duty; so, I find, taxes are to be the reward of obedience; and the Americans, who are considered to have been in open rebellion, are to be rewarded by acquiescing to their measures. When will be the time when America ought to have heavy taxes laid upon it? The hon. gentleman (Mr. Rigby) tells you, that that time is when the Americans are returned to peace and quietness. The hon. gentleman tells us also, that we have a right to tax Ireland; however I may agree with him in regard to the principle, it would not be policy to exercise it; I believe we have no more right to tax the one than the other. I believe America is wrong in resisting against this country, with regard to its legislative authority. It was an old opinion, and I believe a very true one, that there was a dispensing power in the crown, but whenever that dispensing power was pretended to be exercised, it was always rejected and opposed to the utmost, because it operated to me, as a subject, as a detriment to my property and liberty; but, Sir, there has been a constant conduct practised in this country, consisting of violence and weakness, I wish those measures may not continue; nor can I think that the Stamp-Act would have been submitted to without resistance, if the administration had not been changed: the present Bill before you is not what you want; it irritates the minds of the people, but does not correct the deficiencies of that government.

Sir *Gilbert Elliot* said, there was not the least degree of absurdity in taxing your own subjects, over whom you declared you had an absolute right; though that tax should, through necessity, be enacted at a time when peace and quietness were the reigning system of the times: you declare you have that right, where is the absurdity in the exercise of it?

Sir *Richard Sutton* read a copy of a letter relative to the government of America, from the governor of America to the Board of Trade, shewing, that at the most quiet times, the disposition to oppose the laws of this country were strongly ingrafted in them, and that all their actions conveyed a spirit and wish for independence. If you ask an American who is his master, he will tell you he has none, nor any gover-

nor but Jesus Christ. I do believe it, and it is my firm opinion, that the opposition to the measures of the legislature of this country, is a determined prepossession of the idea of total independence.

The Bill was then committed for Friday.

Further Debate in the Commons on the Bill for the impartial Administration of Justice in Massachusetts Bay.] April 25. On the motion for the second reading of this Bill,

Mr. *Dowdeswell* said, he did not mean to oppose the Bill now, but he meant to present a petition from the agent of America, before the third reading: and he would then confine his debate to the injustice of preventing the parties to be heard at the bar, on the validity of their charter. To this point only he should direct his opposition, and he meant to do it, and collect all his force against the two Bills; the one for the regulating the civil government, and the other for the impartial administration of justice, in regard to trials, on the third reading, which was appointed for Monday.

Mr. *Dyson* desired leave to observe, that neither in one case or the other of the two Bills, did the House proceed as a court of justice, but in their capacity as a legislative body, regulating and controuling the deficiency of charters which had been granted by the crown.

Lord *North* said, he intended to move for commitment of the present bill for the 29th, and for the third reading of them both on the 2nd of May.

Mr. *Cavendish* wished to be informed, whether it was the usual custom of parliament to debate the principle of a Bill, after it had been committed.

Colonel *Barré* said, he thought the Bill deserved to be opposed in every stage on the principle on which it was framed: but on the third reading, was as proper a stage as any. He had considered with himself and weighed in his own mind the grounds upon which this Bill was formed; and the result of his deliberation was, that it will be odious to the persons for whose benefit it is intended, by being odious to the people; and that it will be oppressive to America at large.

April 28. Mr. *Dowdeswell* moved for leave to bring up a petition from William Bollan, agent for the province of the Massachusetts Bay in New England, which petition, he said, desired that the Bill for

regulating the civil government, and the Bill for the more impartial administration of justice, might not pass into a law until he should have time to receive answer from the above province to letters he had sent.

Mr. *Dowdeswell* said, after the part I have taken in the progress of these affairs, and the direct manner in which I have expressed myself on former occasions, I shall have the less to trouble the House with on this occasion. The petition I have now brought up is, in the matter of its request, so reasonable, that I cannot persuade myself the House will reject it. I should wish the affair might be seriously considered. What is the present stage of your progress? You are carrying through an Act that is to work a total change in the chartered constitution of a free country, in order to prevent riots and an improper conduct in the mob of that country;—and lest, in carrying that Act into execution, you meet with a resistance that you expect, (and in that very expectation prove that they may resist without the imputation of an unexpected crime) you bring in another to regulate the trial of offenders, by which you destroy the trial by jury, and drag the people across the Atlantic to give evidence in Westminster-hall:—regulations, the flagrancy of which has been sufficiently exposed, and branded in the manner they deserve. The agent of the province, alarmed at so weighty a resentment, and so cruel a punishment on the constitution and liberty of his country, for the evil actions of the scum of the people, presents a petition to you. What is the purport of it? Only to pray you to suspend your judgment until he can receive instructions from his constituents;—that is, he begs a whole country may not be condemned without a single person authorised by it to appear in its defence.—Now, Sir, I think the prayer of this petition so perfectly reasonable, that it appears impossible to be rejected out of the court of inquisition. It is no enquiry whether your measure is just or not;—we may admit it to be, in our opinions, just, proper, and political; and yet assert the necessity of hearing the province before you condemn it to a severe punishment. I will not say it is wrong to act thus—I say it is impossible—common justice—the feelings of mankind condemn it.

Sir George Savile spoke ably on the same side of the question, as did Mr. Burke, Mr. T. Townshend, &c. who all urged how

highly cruel it was to pass a law against any body of people, without hearing either them, or their agent, in their defence.

The motion was very strongly opposed by lord North, Mr. Wedderburne, Mr. Dyson, &c.

At half past six o'clock the question was put, "that leave be given to bring up this petition." Upon which the House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Burke - - - -	}	32
		Mr. Ald. Sawbridge -		
NOES	{	Mr. Saint John - -	}	95
		Mr. Cooper - - - -		

So it passed in the negative.

April 29. The House went into a Committee on the Bill.

Mr. *Moreton* desired to know if the appeal for murder did actually exist now in the colonies?

Governor *Johnstone* desired to know if it was to extend to the trial of those sent to England?

Mr. *Wallace* answered them both, by saying, he meant it should extend, in both cases, as far as the Bill purported. This brought on a debate concerning the appeal for murder being to be taken away in general.

Mr. *Dunning*. Sir, I rise to support that great pillar of the constitution, the appeal for murder; and I am not satisfied that a precedent should be instituted in order to operate as an example for the taking it away in Great Britain as well as the colonies. This clause considers it now as an existing law in America; I cannot say that I look upon it in that light; but this is not the first time this question has been agitated in this House, and has been called and treated as a remnant of barbarism and gothicism. The whole of our constitution, for aught I know, is Gothic. Is it, then, the present idea to destroy every part of that Gothic constitution, and adopt a Macaroni one in its stead? If so, it is a system of ministerial despotism that is adopted here: when a political purpose is in view, things may be adopted that may tend to operate as a precedent, that may become at last prejudicial to the public welfare. I wish, Sir, that, in every step of this matter, gentlemen would be a little more cautious, as I much fear the system would soon be adopted in England; it is a proposition produced on a sudden; and as in its ex-

tent it may turn out dangerous, I shall dissent from it.

Mr. Solicitor General *Wedderburn*. I confess, Sir, that this part of our constitution has never appeared to me as essential: it is very much of a footing with a trial by ordeal. Till laws and society took place there was no other method of deciding between right and wrong. There is now no law in being to prevent trial by battle; and not in very ancient times was it that the court of Common Pleas attended in Tothill-fields to judge of the trials. None but the wife of the deceased, as a female, can appeal; and this may be compromised by a sum of money; it may be reduced into a civil suit; but by being adopted in the manner proposed in this clause, it can operate to no bad purpose; nor do I conceive that the liberty of this country will be at all in danger, as it is only a temporary expedient.

Mr. *Edmund Burke*. I do not controvert, in an adverse line, what is advanced by the learned gentleman. There is nothing more true than that man has given up his share of the natural right of defence into that of the state, in order to be protected by it. But this is part of the whole law, which you ought not to separate, or else you will soon lay the axe to the root of it in England. If there is an appeal for rape and robbery, you ought to have one for murder. I allow, that combat was part of this appeal; but it was superstition and barbarism to the last degree. I cannot, in any degree, consent that the common law should, in any case, be taken away from one part of his Majesty's subjects, and not from the other. But as this is a question of great magnitude, whenever it comes on with respect to Great Britain, I hope then humbly to offer my opinion on it.

Mr. *W. Burke*. No man has the least doubt but the learned gentleman (Mr. Wallace) is fully acquainted with every part of the law, ancient as well as modern: but I think, Sir, he should have brought you in a Bill to have repealed the law in England first; but when this great question comes on, I shall readily give my opinion on it.

Mr. *Stanley* entered deeply into the polity of our constitution, and dwelt a long time on the repeal of the law respecting appeals in general: I think it is hard, said he, that a man should be tried twice for the same offence, and when you have an advantage by knowing his secrets and defence.

I apprehend that criminal laws were made to save the lives of persons, and not to destroy them; that the power of grace or pardon is certainly constitutional, and is a very valuable and glorious prerogative in the crown; and a trial is not complete without it. There never was an instance wherein the trial by appeal was instituted, that it was not for the sake of obtaining a sum of money; and it is part of the law that it may be reduced into such compensation, the whole being allowed to be a civil suit; but taking it in its utmost sense it is nothing but barbarism and cruelty; and I wish to abolish it as an improper part of that code of law for which we are so much famed.

Mr. *T. Townshend*. This is a question, Sir, which has frequently been before the House, and has as often been rejected. I cannot agree to the repeal in part, unless I hear reasons given for the abolition of the whole, or at least better arguments than those I have heard, to induce me to give my opinion to abolish that part which relates to America.

Mr. *Cornwall*. The appeal for murder, Sir, is incorporated in the law of England, either as a natural or political right. Is then, Sir, the redress of a particular injury to be remedied only by a sacrifice of the lives of others? Every body knows that manslaughter is a bar to appeal. But, Sir, can it be intended as a wise, political institution, that after a trial by jury, a single individual, to satisfy his revenge, may overturn the solemn judgment and verdict of a jury? It appears to me, upon examination, to be neither a political nor a natural right, and I should be sorry to give my negative to the clause.

Mr. *Moreton*. I think the provisions of the Bill right; but I did not apprehend that the question would have been debated in this manner; nor did I think that such an extent would have been in view; so that an example in future might have been brought of this, to attack one of the greatest pillars in this constitution, the appeal for murder. If the prisoner is to be sent here, where is the use of taking the appeal away in America? I only wanted that you should not give a constitution of appeal for murder to the colonies, when in my own mind I am convinced they have it not, nor is it a part of their law; and as I think that they have no such power of appeal, I cannot vote for this clause.

Captain *Phipps*. I would wish to give,

Sir, to every man in America, the same kind of right that we enjoy ourselves; did they not carry with them all the privileges, laws, and liberties of this country? If they have a right to part of those laws, they have a right to the whole. I think the appeal for murder ought to be sacred in this country; and whatever doctrines gentlemen may imbibe from Mr. Blackstone, I cannot conceive them to be of that authority which ought to guide and direct us. There is not a more insidious way of gaining proselytes to his opinion than that dangerous pomp of quotations which he has practised; it conveys some of the most lurking doctrines to lead astray the minds of young men. To talk of the finger of nature pointing out law, is to me an absurdity; but I would not advise gentlemen to seek for law in the channels of these times. The rust of antiquity dims the sight of his readers; but if a man will open his eyes, he will find that the finger of nature will never point out the principle of law. The great argument which I dwell upon is, that the appeal for murder is the law of the land; I am also for preserving mercy in the crown; I think it the brightest jewel in it; but I think that it is a blight that will destroy all our harvest if it is without controul. I cannot, Sir, give my consent to this part of the law being annihilated.

Mr. *Skynner*. We are got now upon the most important question that can come on. I think the cause does not want advocates; and therefore it might be improper for me to give my opinion; but, Sir, it is no unnatural thing, that the death of a relation should be attempted to be redressed, and that the friends of the deceased should seek for justice. The appeal for murder, Sir, is considered as a civil action, and to go on hand in hand with the criminal prosecution; and surely, Sir, there is nothing, then, so exceedingly savage or barbarous in it, if it may be compensated by civil action. But let us consider how this will operate in the colonies; let us consider in what manner this action can be brought; the Americans cannot make use of it unless their constitution allows it: a writ must first issue out of the court of Chancery; but as they have no such court in that country, it cannot take its rise there. A writ of this kind can only issue when the person is in the actual custody of the marshal. In the process which you have laid down in the Bill before us, bail is allowed to be taken for the

offence; so that he never can be actually in the custody of the marshal. Therefore, at present, as their constitution stands, I look upon the writ of an execution of appeal to be impossible there. The Americans will think that we are breaking into their civil rights; and I think it highly improper to introduce the appeal for murder in this instance, as it is not necessary. But, Sir, I cannot sit down without saying a few words in defence of that able person alluded to, now a great magistrate, who has thought there is something in our constitution worth preserving. And sorry I am to hear that great and able writer has received any reproach or admonition in this senate; and I believe the hon. gentleman (captain Phipps) is singular in his opinion upon this head; and I am glad to find there are no strangers in the gallery,* for his own sake, to hear what he said. But, Sir, I am of a different opinion from that hon. gentleman; and I dare say the House will agree with me when I think that book one of the best that ever was written upon the laws of this constitution, and will do more honour to himself and this country than any that ever yet appeared; and I am sorry to hear him reproached even by an individual, when I am sure the greatest honour will redound to this country from that able performance.

Sir Richard Sutton. Sir, I do not think that the appeal for murder ought to be partially taken away; if you take it away from any part of the dominions, you should take it from the whole. I am much against the measure, because I think it vindictive and cruel.

Mr. Charles Fox. I am for taking away the appeal for murder entirely, but I am not for taking it away in part. If the appeal is allowed, you take away the power of pardoning in the crown. I look upon the power of pardon as much a right in the subject to claim, as part of the trial. Suppose a criminal should be tried and convicted, and he should appear to be out of his senses, in this case he is certainly not to be hanged, the pardon being the only mode of saving his life. Appeal for murder is the only instance in our laws in which satisfaction is allowed to the injured by the blood of another, as it may

be compensated by a sum of money. I shall vote against this clause, because I think the Americans have a right to the same laws as we have.

Captain *Phipps* rose to explain himself with regard to Mr. Blackstone, and said, however he might have represented his performance, he was glad to find it was so well defended by the warmth of friendship; that he had heard, and was sorry to hear, that book had undergone some regulations with regard to its eligibility, which he hoped was not true. He sat down rather chagrined to find his opinion with regard to that work was singular.

Sir George Savile. Sir, the appetite of revenge is, like that of hunger, never to be satisfied. There are certain rights which we bring into society which we give up for the good of the whole; the passion of revenge seems to be under that description; and in this instance only the blood of another may be compensated by civil action. But I will not contend that to be a civil suit which ends in hanging, which the appeal for murder does when not compensated for; but it is necessary that men should give up certain rights which they enjoy for the good of society at large. I would wish a fair and impartial trial to be secured, which I think is already done in the colonies without meddling with the appeal for murder.

Mr. Skynner. Sir, I only rise to explain, that the appeal for murder may be reduced to a civil action; that there also lies an appeal in robbery and rape; and if the woman who had been injured, when the man was under the gallows to be hanged, should marry him, he would, by the ancient law, be saved, because all her civil right would be vested in her husband by that act, and therefore compensated for as such: by that act she vests those civil rights, which he had deprived her of, in him as her husband.

Mr. Wallace withdrew the clause for the appeal for murder.

Mr. R. Fuller. Sir, I am the more convinced by what I have heard to-day, that the whole law relative to the appeal for murder, ought to be repealed. I will therefore give notice, on some future day, when I shall make the motion.

Mr. Dunning desired to know, whether his learned friend (Mr. Wallace) had made any provision against a faulty indictment.

Mr. Wallace said, he had not, as he did not think it necessary; that if the prisoner

* The standing order for the exclusion of strangers was strictly enforced during the progress of the three Bills relating to the disturbances in America.

returned, he might there be indicted again.

Mr. *Dunning* said, so, then, it is intended that the prisoner may go over again if he chuses.

Mr. *Wallace* then brought up a clause for continuing that Act for three years, to commence from the end of June next, and to the end of the next session of parliament after the three years. After which the Bill was ordered to be engrossed.

Petition of the Natives of America residing in London against the two Bills relating to the Government of Massachusetts Bay.] May 2. Sir George Savile presented a Petition from several natives of America, complaining against the two Bills relative to Massachusetts Bay. The Petition was read, setting forth,

“ That the petitioners are again constrained to complain to the House of two Bills, which, if carried into execution, will be fatal to the rights, liberties, and peace of all America, and that the petitioners have already seen, with equal astonishment and grief, proceedings adopted against them, which, in violation of the first principles of justice, and of the laws of the land, inflict the severest punishments, without hearing the accused. Upon the same principle of injustice, a Bill is now brought in, which, under the profession of better regulating the government of the Massachusetts Bay, is calculated to deprive a whole province, without any form of trial, of its chartered rights, solemnly secured to it by mutual compact between the crown and the people. The petitioners are well informed, that a charter so granted, was never before altered, or resumed, but upon a full and fair hearing; that therefore the present proceeding is totally unconstitutional, and sets an example which renders every charter in Great Britain and America utterly insecure. The appointment and removal of the judges at the pleasure of a governor, with salaries payable by the crown, puts the property, liberty, and life of the subject, depending upon judicial integrity, in his power. The petitioners perceive a system of judicial tyranny deliberately at this day imposed upon them, which, from the bitter experience of its intolerable injuries, has been abolished in this country: of the same unexampled and alarming nature is the Bill, which, under the title of a more impartial administra-

[VOL. XVII.]

tion of justice in the province of Massachusetts Bay, empowers the governor to withdraw offenders from justice in the said province, holding out to the soldiery an exemption from legal prosecution for murder, and, in effect, subjecting that colony to military execution: the petitioners entreat the House to consider what must be the consequence of sending troops, not really under the controul of the civil power, and unamenable to the law, among a people whom they have been industriously taught, by the incendiary arts of wicked men, to regard as deserving every species of insult and abuse; the insults and injuries of a lawless soldiery are such as no free people can long endure; and the petitioners apprehend, in the consequences of this Bill, the horrid outrages of military oppression, followed by the desolation of civil commotions; the dispensing power which this Bill intends to give to the governor, advanced as he is already above the law, and not liable to any impeachment from the people he may oppress, must constitute him an absolute tyrant; that the petitioners would be utterly unworthy of the English ancestry, which is their claim and pride, if they did not feel a virtuous indignation at the reproach of disaffection and rebellion, with which they have been cruelly aspersed; they can with confidence say, no imputation was ever less deserved; they appeal to the experience of a century, in which the glory, the honour, the prosperity of England, has been, in their estimation, their own; in which they have not only borne the burden of provincial wars, but have shared with this country in the dangers and expences of every national war; their zeal for the service of the crown, and the defence of the general empire, has prompted them, whenever it was required, to vote supplies of men and money, to the utmost exertion of their abilities; the Journals of the House will bear witness to their extraordinary zeal and services during the last war, and that but a very short time before it was resolved here to take from them the right of giving and granting their own money. If disturbances have happened in the colonies, they entreat the House to consider the causes which have produced them, among a people hitherto remarkable for their loyalty to the crown, and affection for this kingdom; no history can shew, nor will human nature admit of, an instance of general discontent, but from a general sense of oppression: the

[40]

petitioners conceived, that when they had acquired property, under all the restraints this country thought necessary to impose upon their commerce, trade, and manufactures, that property was sacred and secure; they felt a very material difference between being restrained in the acquisition of property, and holding it, when acquired under those restraints, at the disposal of others; they understand subordination in the one, and slavery in the other. The petitioners wish they could possibly perceive any difference between the most abject slavery, and such entire subjection to a legislature, in the constitution of which they have not a single voice, nor the least influence, and in which no one is present on their behalf; they regard the giving their property by their own consent alone, as the unalienable right of the subject, and the last sacred bulwark of constitutional liberty; if they are wrong in this, they have been misled by the love of liberty, which is their dearest birth-right, by the most solemn statutes, and the resolves of this House itself, declaratory of the inherent right of the subject; by the authority of all great constitutional writers, and by the uninterrupted practice of Ireland and America, who have ever voted their own supplies to the crown, all which combine to prove that the property of an English subject, being a freeman or freeholder, cannot be taken from him but by his own consent: to deprive the colonies, therefore, of this right, is to reduce them to a state of vassalage, leaving them nothing they can call their own, nor capable of any acquisition but for the benefit of others. It is with infinite and inexpressible concern, that the petitioners see in these Bills, and in the principles of them, a direct tendency to reduce their countrymen to the dreadful alternative of being totally enslaved, or compelled into a contest the most shocking and unnatural with a parent state, which has ever been the object of their veneration and their love; they intreat the House to consider that the restraints which examples of such severity and injustice interpose, are ever attended with most dangerous hatred. In a distress of mind which cannot be described, the petitioners conjure the House not to convert that zeal and affection which have hitherto united every American hand and heart in the interests of England, into passions the most painful and pernicious; most earnestly they beseech the House not to attempt

reducing them to a state of slavery, which the English principles of liberty they inherit from their mother country will render worse than death; and therefore praying the House will not, by passing these Bills, overwhelm them with affliction, and reduce their countrymen to the most abject state of misery and humiliation, or drive them to the last resources of despair."

The Petition was ordered to lie on the table.

Further Debate in the Commons on the Bill for regulating the Government of Massachusetts's Bay.] The order of the day was read for the third reading of this Bill.

Mr. *Dunning*. There seems to me to be a system of tyranny adopted throughout the whole of the three Bills which have been brought into this House, one of which is passed, and the other two are now under consideration. While the first proposition stood single, I mean the Boston Port Bill, I did not think it of sufficient magnitude to oppose it, till it was followed by these two others. It now appears to me, that the inhabitants of Boston are much in the same condition as prisoners surrendering at discretion, as it is in the power of the minister to allow or disallow the restoration of its port and trade. [He then gave a long history to the House of the manner in which the Bills had been moved for and brought in; he animadverted on the contents of the three Bills, and commented on the preamble of the Bill now before the House.] I have not, said he, heard of, nor do I see any overt act of treason stated in the preamble of this Bill, so as to authorise the severe punishments which it enacts: we are now, I find, in possession of the whole of that fatal secret, which was intended as a corrective for all the disturbances in America; but it does not appear to be either peace or the olive-branch—it is war, severe revenge, and hatred against our own subjects. We are now come to that fatal dilemma, 'resist, and we will cut your throats; submit, and we will tax you'—such is the reward of obedience. There appears to me nothing of a system or plan throughout the whole that has been adopted or intended, because the Bills have been so altered, in the committee, that there is scarce a word remaining of the original plan, if there was any; the preamble of the Bill now before us seems

to have a presumption of open resistance, of which no proof has as yet been proved at your bar, so as to countenance such an assertion; if, indeed, that military guard, which was appointed by the town, had been employed in the manner as the preamble mentions, it might then have been deemed an open resistance, but nothing of that kind happened; the whole resistance that was made was by a few of the mob urged on by the impetuosity of riot and disturbance. Had any thing appeared that bore the least similarity to treason or rebellion, my hon. and learned friends would have told us that it was treason, and I will give them credit for their willingness upon such an occasion; but if there was treason, there were traitors, they would have been known and punished; and if not known, they would at least have been enquired after; but as no enquiry has yet been set on foot, I will be bold to say, there was neither treason nor traitors. We seem to be in a strange condition, not knowing whom we have to deal with, nor in what manner to act. If gentlemen will look into the charter, it will be seen that the governor complained, without cause, of the want of power; it was the ignorance of the governor; he had power, but did not know it; and I think that the gentlemen who had the planning of these Boston Bills, have made alterations in the government of Massachusetts's Bay, without the previous ceremony of knowing the old one. There must be, and certainly is, a complete legislative power vested in the assembly of the province, to have given this power to the governor, had the charter been deficient, I mean for the preservation of peace and good order. [He spoke a long time to prove that the constitution of Massachusetts's Bay was in no manner defective, but that the defect was owing to some unknown cause; and, said he, to what, I profess I do not know.] When I talk of the minister, I mean to speak with all due respect to the noble lord, though I do not consider him as the immediate actor of all this. I know not the age, the person, or the sex, but that I may not be wrong, I will use the language of acts of parliament, which I imagine will comprehend, and will say, he, she, or they; to that person or persons alone do I mean to address myself. Let me ask, said he, whether these mischiefs arising from the charter are peculiar to Massachusetts's Bay? Are there not deficiencies in others? yet, it is said,

an alteration is necessary to make the charter conformable to the royal government. Now do you know that when you have altered it, it will not be dissimilar to many of the others, when the ignorance of the government of one province appears to me to be as great in those who are to alter it, as in the others. I find great fault, Sir, that the whole of this arrangement is to be under the direction of the crown; and that the whole civil and military power of that country is to be totally at the disposal of the ministers of this.—He then went through the different clauses of the Bill, objecting principally against the prisoners being brought over here, as contained in the last Bill; and that difficulties would arise which would convince gentlemen who had a concern in the management of these affairs, that what they had done had tended to disunite the affections of the American subjects from this country; and, instead of promoting peace, order, and obedience, would produce nothing but clamour, discontent, and rebellion.

Sir William Meredith said, that if necessity gave a right to tax America, the state of our finances at the close of the last war fully justified the Stamp Act. That he acknowledged the supremacy of Great Britain over America; but that the legislature of a free country must not, in taxation, or any other act of power, deprive the subject of his right to freedom in person and property. The security an Englishman has in property consists in this; that no tax can be imposed upon him but by the very members of parliament who pay the tax themselves, equally with all those on whom they impose it; that no man had any thing he could call his own, if another could take his property, and use it, either for his advantage, or in order to prevent the diminution of his own fortune; but that such taxes only might be raised as were consequential to regulations of trade—such were port duties. That a tax similar to that upon tea was imposed by the 25th of Charles 2, since that time upon molasses, and other articles, which the Americans had acquiesced in. That he never approved the tax upon tea; and had opposed it, as he would always oppose the taxation of America. But now, that the Americans had not only resisted the act of parliament, but laid violent hands on the merchants' property, it was high time to regulate the course of justice, so that our merchants might trade thither with security. That the present

Regulation Bills went no further. That they established the trial by jury in America the same as in England; whereas the juries were now appointed according to the mere will and pleasure of the select men, some of whom had been forward in committing those excesses, that occasioned the present uneasinesses. That the council was now appointed by the assembly, and could controul every act of the governor; the execution therefore of every law enacted by the British parliament, was at their option; but that all executive power must be subservient to the legislative, otherwise the legislature itself would be a mere cypher. We must therefore either relinquish at once the right of enacting laws, or take the execution of them out of the hands of those that have denied our authority to make them. That we had better break at once all connections with America, than encourage our merchants to trade thither without the full protection of the laws of their country, both in securing their effects, and in obtaining redress for such injuries as they may sustain.

Mr. Stanley. These Bills certainly affect the interior policy of America, and are intended for the better regulation of its internal government. Whatever may be the opinion of that propriety of regulation with the Americans, I know not; but their submission to the laws of some country is necessary, as I cannot conceive the independence of an American colony to exist, whilst the balance of power remains in Europe, supported and protected by armies and navies. These people must resort to some state, and it must be to a Protestant one: and were they to unite themselves with any other state than this, they would meet with a yoke and burden which they would not wish to bear. It is said by some, that this is driving them to a state of slavery; by others, that this proceeding will be ineffectual. As to the latter, if we do not go far enough, we are certainly on the right side; but I cannot sit still, and see with indifference the authority of this country submitting to every indignity they shall offer us. There are but two ways of governing mankind, by force, or by consent. Mankind are to be governed by legal power, acting by prescribed rules of law and justice; and a measure established on this doctrine, deserves the concurrence of the House. [Here he gave a long account of the rise of the American government, and shewed,

that an inattention to it, in its infancy, had induced the Americans so to think of themselves, as to throw the government into a wild democracy; that it was not till after the Restoration that any degree of attention was paid them: he then read an extract from some old papers, shewing that the Americans had, so long ago as king William's time, refused obedience to the prerogative in many instances.] America, says he, is not now to be governed as it might be a hundred years ago; and how is it possible that the council should, in any shape, have power, when it appears, that if any person, of moderate passions towards the degree of respect or authority to this country, is chosen of the council, and is inclined to assist the governor, he has always soon after been displaced? Let me ask gentlemen, if the property of the subjects of this country had been injured in France, would they have thought it a prudent conduct to have sat still and done nothing? I had much rather that this dispute had passed nine years ago, but I would rather meet the attack now than nine years hence; and I should blame myself much if, by any vote of mine, I should separate so valuable a province from this country.

Mr. T. Townshend. The importance of this subject, and the melancholy consequences which are likely to ensue, deserve the serious attention of this House. I am not in a hurry to adopt the opinion of administration, but I should be the lowest wretch upon earth if I suffered private opinion to be smothered. I was determined to give support to the most plausible method that was proposed, and I will say, as to this method, 'Si quid novisti rectius istis, candidus imperti; si non, his utere mecum.' I am much averse to the meddling with charters, but when I see the inconveniencies that arise from the town-meetings, I do not think myself unreasonable in wishing to adopt an amendment. I think the juries are properly altered, according to the constitution of this country, nor have I any objection to men being brought over to England to be tried, if it is impossible to find men of cool disposition and proper temper to try them in that country; and if I see this Bill left to the execution of the abilities of general Gage, I fear not the success of it. I remember, Sir, that men who were the most violent in opposition to the Stamp Act, at the time it was agitating, afterwards, when they found it was likely to pass, were applying for

stamp-master's places. I wished much, Sir, to have coupled this measure with another; I mean the repeal of the tea tax, which we might have done without shewing the least timidity, but shall content myself with giving my affirmative to the present Bill.

Col. Barré. The question now before us is, whether we will chuse to bring over the affections of all our colonies by lenient measures, or to wage war with them? I shall content myself with stating—[Here he gave a long history in what manner Mr. Grenville, as an able financier, wished to search for means to liberate this country from its load of debts] that when the Stamp Act was repealed, it produced quiet and ease: was it then in the contemplation of any sober, honest mind, that any other tax would be laid on for at least a century? He blamed the late Mr. C. Townshend, with all his eloquence, for loading America with a tax; nor was he, said he, sufficiently cautious in choosing proper commissioners for executing his trust; it was this which disgusted the inhabitants of Boston, and there has been nothing but riots ever since. It is the duty of the governing state to correct errors and wrong opinions. [Here he read several extracts of Mr. Dickinson's book, entitled, "Farmer's Letters."] You sent over troops, said he, in 1768, and in 1770 you were obliged to recall them. The people were fired at by a lawless soldiery, and seven or eight innocent persons were killed. They were carried about the town as victims of your revenge, to incite the compassion of the friends and relations of the deceased, and next morning you were forced to order the troops out of town. He condemned much the behaviour of governor Hutchinson, as an accomplice in the present disturbances, and commended the behaviour of governor Tryon, who, knowing that he could only land the tea at the muzzle of his guns, prudently sent it back to England. All other colonies, he said, had behaved with nearly the same degree of resistance, and yet you point all your revenge at Boston alone; but I think you will very soon have the rest of the colonies on your back. You have blocked up the port of Boston; I supported you in that, and I think I have no great guilt on that head, as I thought it was a measure adopted to produce a compromise for the damage the East India Company had sustained. You propose, by this Bill, to make the council of Boston nearly

similar to those of the other royal governments: have not the others behaved in as bad a manner as Boston? And it is my opinion, that the office of council, being chosen by the crown, will become so odious, that you will not get a respectable man that dares to accept of it, unless you have the military officers for the council, whom I think, in my conscience, will behave well. Let me ask again, what security the rest of the colonies will have, that upon the least pretence of disobedience, you will not take away the assembly from the next of them that is refractory.—Here he blamed the House very much for not receiving the petition of Mr. Bollan, who, he said, had corresponded with the new council, and had been allowed and received at the public offices as agent for the colonies. Why, said he, will you pretend to alter the charter of that constitution of which you know not its present form of government; for, he said, he had observed that the late governor of Boston (governor Pownall) had been, during the different stages in which the Bill had been debated, going from side to side of the House, to give information about the government and its laws, many of which he remembered; some few the governor had forgot. In France, Sir, it is a custom, said he, to judge upon one-sixth, seventh, or eighth of a proof—the unfortunate Calas, of Thoulouse, was condemned upon eight hearsays, which in France amounted to a proof; but, surely, a British House of Commons will not condemn on such evidence; and I hope never to see Thoulouse arguments [here a member observed he meant *too loose* arguments] admitted as proof here. I do not know of any precedent for this Bill; it is impossible to put it in execution; and I will tell the House a story that happened to us when we marched at Ticonderoga: the inhabitants of that town looked upon the officers of the corps as men of superior beings to themselves, and the youngest amongst them, I will answer for it, was highly treated, and indulged by the fair sex to the utmost of our wishes, even their wives and daughters were at our service; and if the same degree of civility prevails, think you that it is possible the execution of this Bill can ever be observed by your army? I was of the profession myself, and I beg leave to tell the House that I am no deserter from it. I was forced out of it by means which a man of spirit could not submit to. I take this opportunity to say

again, that I am no deserter from my profession. [Here it was strongly imagined, that the colonel meant to give a broad hint to administration, that the line of his profession was not disagreeable to him.] I think this Bill is, in every shape, to be condemned; for that law which shocks equity is reason's murderer; and all the protection that you mean to give to the military, whilst in the execution of their duty, will serve but to make them odious; and what is so to others, will soon become so to themselves. I would rather see general Gage invested with a power of pardon, than to have men brought over here to be tried; and the state of the case upon the trial, I mean in America, would, I am sure, justify such pardon. You are, by this Bill, at war with your colonies; you may march your troops from north to south, and meet no enemy; but the people there will soon turn out, like the sullen Hollanders, a set of sturdy rebels; a perpetual exertion of your authority will soon ruin you; therefore, let me advise you to desist. Let us but look a little into our behaviour. When we are insulted by France and Spain, we negotiate—when we dispute with our colonies, we prepare our ships and our troops to attack them. It has been the language of a noble lord, that when America is at our feet, we will forgive them, and tax them; but let me recommend lenient measures, and to go cap in hand to your subjects; if you do not, you will ruin them. The great minister of this country (lord Chatham) always went cap in hand to all: his measures were lenient and palliative; but we have now adopted another system. In the one House of Parliament "we have passed the Rubicon," in the other "delenda est Carthago." [He gave a history here of the different state of finance in which France was; that it was superior in every degree to this country; that their establishments were lower in point of expence; and that France was more ready and fit to go to war than we were; and that during these troubles with our colonies, France would not lie quiet;] But I see nothing, said he, in the present measures but inhumanity, injustice, and wickedness; and I fear that the hand of heaven will fall down on this country with the same degree of vengeance.

Mr. S. Fox. I rise, Sir, with an utter detestation and abhorrence of the present measures. It is asserted by many gentlemen, that these measures are adopted to

keep up the regard of the people, but I can by no means acquiesce in that; all these Bills have no qualities relative to those lenient measures. As to the second Bill, it has a most wanton and wicked purpose; we are either to treat the Americans as subjects or as rebels. If we treat them as subjects, the Bill goes too far; if as rebels, it does not go far enough. They have never yet submitted, and I trust they never will. We have refused to hear the parties in their defence, and we are going to destroy their charter without knowing the constitution of their government. I am utterly against such measures as these, which can tend to nothing but to raise disturbance and rebellion.

The Marquis of Carmarthen. I do not mean to trespass long at this hour of the night; but there is not a person in the world a stranger to the practices carried on in America, with a direct intention to throw off their dependance on this country. The opposition which they fomented, was not made on account of the tax, but was a systematic measure of opposition to every part of the law of this country. It might have been thought by sober-minded people, that the repeal of the Stamp Act would have brought them back to a sense of their duty: but, alas! Sir, it had a contrary effect. [He read an extract of a letter from governor Bernard, setting forth, that upon coercive measures being adopted in this country, the Americans seemed to give an acquiescence; but whenever lenient ones were the system of administration, they have always been turbulent and riotous.] It has been observed, Sir, by an hon. gentleman (colonel Barré) that a great minister (lord Chatham) proceeded upon cap-in-hand measures. I do not agree with him on that point, as I never heard that minister celebrated for that part of his character. I always understood that his measures were spirited and vigorous, and that he was the farthest man in the world from making use of cap-in-hand measures; his character was of a far different nature. I refer the House to all the panegyrics that have been passed on that noble lord, for confirming what I say. But, Sir, the time may soon come, when that noble lord will have an opportunity, in the other House of Parliament, to adopt and make use of those cap-in-hand measures which the hon. gentleman has just now attributed to him, as a part of his character; but I strongly believe his system will be of a different kind.

Mr. *St. John*. I rise, Sir, to make a few observations upon what has been said. It has been stated that this Bill is taking away all the rights of the Americans in one day, and that it is a total destruction of their charter. What is this, Sir, but a gross misrepresentation of parliamentary proceedings? I hold it, Sir, imprudent to meddle with chartered rights, but in cases where the rights of that charter are exercised to the detriment and injury of the people. Sir, parliament has saved America from the jaws of tyranny, by amending their constitution; and to say that we have no right to alter their government for such purpose, appears to me the highest absurdity; we are perpetually altering and ameliorating our own constitution, upon emergencies; is there, then, no emergency at this present instant, when your officers are obliged to take shelter in your castle; when the magistrates refuse to execute their authority to keep the peace; when your ships are plundered, and your trade obstructed; and whenever a person endeavours to reform the constitution of that country, he incurs nought but pains and penalties? Is it no defect, that the inhabitants, when they meet to choose their officers of the town, determine upon points that go to the very vitals of the constitution? Not to correct these deficiencies in their constitution, but to give up the points which they contend for, would be a base surrender of the rights of posterity. It has been said, that this law is partial, but that that partiality is applicable only to the people of Boston, who have been the ringleaders of the whole disturbances; that it is slow, I also agree, because measures of this sort, when adopted on the line of security, proceed with an attentive step. But I cannot agree that the measure is hostile; if it is, it is hostility adopted for the prevention of bloodshed. Have we not been provoked to this from the manifold injuries which this country has received? It is not, Sir, the strength of America that we dread; they have neither men, army, nor navy. What then have we to fear—do we dread the loss of our trade? No, Sir, the avarice of the Americans will prevent that. They threaten us with not paying their debts; but I am afraid, if we give way to them, they will not allow that they owe us any: however, Sir, let us not proceed weakly nor violently, but with resolution and firmness. I approve of the system that is adopted; and with regard to a fair and

impartial trial in that country, I think it not only improbable but impossible; I therefore wish well to the present Bill.

Mr. *Byng*. I am sorry, Sir, to find that we are not now proceeding in our judicial capacity, but in our legislative one; I could wish that we instilled into the measure more judgment, and less of our power. It is said this measure is adopted to prevent bloodshed; is it then that you send armies there for that purpose? It has been said, that parliament has bowed its head to every minister as often as measures have been adopted. It bowed when the Stamp Act was made; it bowed when it was repealed. I wish, however, in this present instance, it would for once not be quite so civil. It has been said, that these Bills are for amending the constitution. Will gentlemen call that amendment a good one, which directs, that the judges' places shall be at the disposal of the crown? Surely not. It has been said, Sir, that there has been treason and traitors, but that the traitors are not known. There can be no treason without traitors, therefore endeavour to find out the traitors first, that they may be punished, to save the destruction of an innocent people. It has been urged, that this Bill is only for a short time; but the same argument that operates for its continuance for an hour, will operate equally for its perpetuity.

Mr. *Rigby*. I rise, Sir, only to contradict an opinion which has been imbibed, that, in the debate the other day, I wished to tax Ireland. I only used it as an argument in my speech to tax America, but never expressed a hint that it was proper to tax it. It has also been observed, that I treated requisition in a ridiculous light; I did so; and I think any requisition to the Americans for their quota of their taxes, would be both ridiculous and ineffectual. But the hon. gentleman's (col. Barré's) ideas of requisition, go no further than furnishing provision for a regiment. The hon. gentleman has taken three or four days to consider of my speech, in order to give it an answer. I say stand and deliver, to the Americans, just as much as I say to my constituents, when I give my vote to passing the Land-tax Bill; but the hon. gentleman was very desirous to have a fling at me. I desire, Sir, to support the present ministry, because I regard them; because I have respect for their abilities and resolution. That great minister, Sir, who has been so much famed for cap-in-hand measures,

did make his country too big for any one, even himself, to govern. There is not a symptom that any of the people out of doors are displeased with our measures; but I am told quite the contrary. America, at this instant, is in a state of downright anarchy; let us give it a government. I always, Sir, speak when I like, and hold my tongue when I think proper; and whatever weight and force I may have been represented to have, connected with my friends, I would give it in support of the noble lord; I would vote, Sir, for these measures, were I upon my oath, which seems now to be the fashionable parliamentary test [alluding to those objections he always made to the oath of the committee appointed to try controverted elections]; and whether I am upon my honour, or my oath, I will give a hearty concurrence to these measures.

General Conway. I would not take up the time of the House at this late hour of the night, but for a very short time. I never did maintain that Great Britain had no right to tax America; I said that taxation and legislation had no connection; I allowed that we had an abstract right to tax Ireland, and also America, in the Declaratory Act; but I do not know the time when it will be proper and right so to tax. This measure will throw us into great difficulties, which I do not know when we shall get out of. The tax upon tea does nothing for our revenue; it is no object; as long as you continue the doctrine of taxing America, you will never be at rest. Where is this olive branch I have heard so much talk about? It is not to be found in these measures. I do not wish to see the military protected from the laws of their country; if they commit an offence, why not leave them open in the same manner as others are? I have said, that we are the aggressors, and I say so still; after so many innovations of the Stamp Act, and other taxes, I am for cap-in-hand measures, for lenity and tenderness to the Americans. There is an universal right in persons to be heard at this bar in judicial cases, when they apply for it; but I rise, Sir, only to lament what I cannot prevent; and that this spirit may be rightly directed, I do hope that the Americans will wait till better times; for I think it is better to have peace with America, and war with all the world, than to be at war with America; because, if they are at peace with us, they will contribute to support us in time of war.

Lord George Germain. I hope I shall be excused, Sir, for trespassing a few minutes on the time of the House. I should be sorry to be a supporter of those measures, which are termed wicked and tyrannical; but as I cannot think that this Bill has any such designs, I shall readily adopt it. The trial of the military has been much objected to. What is it, Sir, but a protection of innocence? Will you not wish for that, Sir? America, at this instant, is nothing but anarchy and confusion. Have they any one measure but what depends upon the will of a lawless multitude? Where are the courts of justice? Shut up. Where are your judges? One of them taking refuge in your court. Where are your council? Where is your governor? All of them intimidated by a lawless rabble. Can these men expect a fair trial? No, Sir, at present they have no existence as any part of the executive power. It is objected, that the judges receive their salaries from the crown, and not from the people. It is to me a matter of surprise, that any gentleman could think seriously for a moment, that this government wanted no amendment. It has been said, give up the tea tax: Can you give up the tea tax, without the constitution? Support your supremacy, whatever you do; legislation cannot but be part of it. It has been observed, that we negotiated about Falkland's island; I wish, Sir, we could negotiate with the Americans upon the same terms. If they would do as the Spaniards did, that is, disown the fact, and give up the point in question, we might then negotiate. The Americans, it is true, have made this claim several years, of exemption from taxation, but they have never yet carried it. Great Britain is desired to be at peace with her colonies, by an acquiescence in their claim; but do you call such a submission to be a peace? I really think the first Bill for blocking up the port, is the only Bill of pains and penalties, when you deprive that port of its trade; and this was the Bill to which the hon. gentleman (col. Barré) gave his hearty concurrence. The Bill before you is not such a Bill: there are no pains nor penalties; their government will be restored, and private property protected. It has been said, go to the King's bench with this complaint, as in former times; but let me ask gentlemen, whether they can ameliorate or alter their charter? No, Sir, they can do nothing but say guilty or not guilty, by forfeiting their

charter. It is incumbent on every man to give his opinion from his own breast upon this great occasion ; but, Sir, I cannot help once more condemning that mob of people, which, under the profession of liberty, carries dark designs in its execution ; but my utmost wish is, that these measures, in their consequences, may turn out well, and contrary to what has been apprehended.

Mr. *Charles Fox*. I take this to be the question, whether America is to be governed by force, or management ? I never could conceive that the Americans could be taxed without their consent. Just as the House of Commons stands to the House of Lords, with regard to taxation and legislation, so stands America with Great Britain. There is not an American, but who must reject and resist the principle and right of our taxing them. The question, then, is shortly this : Whether we ought to govern America on these principles ? Can this country gain strength by keeping up such a dispute as this ? Tell me when America is to be taxed, so as to relieve the burthens of this country. I look upon this measure to be in effect taking away their charter ; if their charter is to be taken away, for God's sake let it be taken away by law, and not by a legislative coercion : but I cannot conceive that any law whatever, while their charter continues, will make them think that you have a right to tax them. If a system of force is to be established, there is no provision for that in this Bill ; it does not go far enough ; if it is to induce them by fair means, it goes too far. The only method by which the Americans will ever think they are attached to this country, will be by laying aside the right of taxing. I consider this Bill as a Bill of pains and penalties, for it begins with a crime, and ends with a punishment ; but I wish gentlemen would consider, whether it is more proper to govern by military force, or by management.

Mr. Attorney General *Thurlow*. The form of the present law was adopted to give magistracy that degree of authority which it ought to be vested with for the execution of the laws ; but this Bill carries with it no degree of severity, unless the pleasure of disobeying is greater than that of the punishment. To say that we have a right to tax America, and never to exercise that right, is ridiculous ; and a man must abuse his own understanding very much, not to allow of that right. To pro-

[VOL. XVII.]

cure the tax by requisition is a most ridiculous absurdity, while the sovereignty remains in this country ; and the right of taxing was never in the least given up to the Americans. Their charter is mere matter of legislative power ; and whoever looks into it, will see that no power whatever was meant to be given them so as to controul the right of taxation from Great Britain.

Mr. *Edmund Burke*. I have little to say, Sir ; but what I have to offer, I shall offer with freedom. It has been asserted, that the nation is not alarmed, that no petitions of discontent are received. How can persons complain, when sufficient time is not given them to know what you are about ? We have now seen the whole of this great work ; I wish all was good that it contained. I am afraid a long series of labours and troubles will succeed. The question that is before you is a great one ; it is no less than the proscription of provinces, and cities, and nations, upon their trial ; except that when the saints of God are to judge the world, I do not know one of greater importance. I will endeavour to comply with the temper of the House, and be short in what I have to offer. [The House being noisy, several members going out, soon after which he got up and said,] I find, Sir, I have got my voice, and I shall beat down the noise of the House. Why did I compromise ? [Here he produced the letters from lord Hillsborough to the Americans, which declared, that his Majesty or his ministers, had not any intention of laying any further taxes on America.] He dwelt some considerable time on the words which the letter contained, as a sort of declaration to the Americans that they should not be taxed. If you govern America at all, Sir, it must be by an army ; but the Bill before us, carries with it the force of that army ; and I am of opinion, they never will consent without force being used. I have to protest against this Bill, because you refuse to hear the parties aggrieved. Consider what you are doing, when you are taking the trial over the Atlantic seas, 3,000 miles to Great Britain ; witnesses may be subpoenaed, and called upon by the prisoner, as many as he pleases. Let me, for God's sake, wish that gentlemen would think a little more that a fair trial may be had in America ; and that while the King appoints the judge, there is a degree of fairness that people should the jury. Repeal, Sir, the Act which gave

[4 P]

rise to this disturbance; this will be the remedy to bring peace and quietness, and restore authority; but a great black book, and a great many red coats, will never be able to govern it. It is true, the Americans cannot resist the force of this country, but it will cause wranglings, scuffling, and discontent. Such remedies as the foregoing, will create disturbances that can never be quieted.

Lord North rose to answer Mr. Burke. He desired leave to look at lord Hillsborough's letter, as he had not a copy of it; and explained the passages in that letter very different from what Mr. Burke had: he read the words, "That neither the King, or any of his ministers, wished to tax America." His lordship observed, that this was not an expression that carried with it a denial of the right, but only a wish that no further taxes should be laid on. A man, said he, is not factious, that says America may be taxed; the letter contains an opinion, that no further taxes, at that time, ought to be laid. I am sorry to hear a charge thrown out, that these proceedings are to deprive persons of their natural right. Let me ask, of what natural right, whether that of smuggling, or of throwing tea overboard? Or of another natural right, which is not paying their debts? But surely this Bill does not destroy any of their civil rights? You have given them a civil magistrate and a council, which they had not before; you have given the innocent man a fair trial in some colony or other; and if he cannot get a fair trial in that country, the whole being in a distempered state of disturbance and opposition to the laws of the mother country, then, in that case, and in that only, he must be sent to Great Britain. All that these Acts profess to do, is to restore some order to the province. None that admit the least degree of sovereignty, can possibly deny the provision of this Bill; it is not a military government that is established, but the alteration of a civil one. I am sure that this is adopted as the best method at present; I do not say it will succeed, but I hope for the good consequences of it; and if Massachusetts Bay is to be governed by management, this is the only remedy. By what means is authority to be maintained, but by establishing that authority from parliament? I do not know, Sir, what is the proper time to lay a fresh tax on America; but this I know, that this is not the proper time to repeal one. We are now to esta-

lish our authority, or give it up entirely; when they are quiet, and return to their duty, we shall be kind, whether by repealing this tax, or what not, I cannot tell; but this I will answer, that when they are quiet, and have a respect for their mother country, the mother country will be good-natured to them.

Sir George Savile. I shall say not a word of preface at this late hour; I do not hold it improper to take this into consideration in a legislative capacity, in preference to a judicial one; but I hold this to be a principle of justice, that a charter which conveys a sacred right, ought not to be taken away without hearing the parties, either in a judicial or legislative way, which has not been done, but from their own declaration in the papers on the table, and which I, in my mind, do not think sufficient evidence.

The question being put, the House divided. The Noes went forth.

Tellers.

YEAS	{ Marq. of Carmarthen -	} 239
	{ Mr. Onslow - - - -	
NOES	{ Mr. Fred. Montagu -	} 64
	{ Mr. Byng - - - -	

So it was resolved in the affirmative, and the Bill was read the third time and passed.

Further Debate in the Commons on the Bill for the impartial Administration of Justice in Massachusetts Bay.] May 6. The order of the day for the third reading of this Bill being read,

Mr. Dempster. I do not apprehend, Sir, that the Bill before you is at all adequate to the purpose intended; nor do I think that experience warrants the assertion, that a fair trial cannot be had in the colonies. Surely, Sir, the bringing men over to England to be tried, is not only a direct breach of their constitution, but is a deprivation of the right of every British subject in America. I should have thought that a power of reprieve, lodged in the governor, after conviction, would have been fully sufficient, without bringing men to England. Whenever murder is committed, it must inevitably go off with impunity; for whenever any person present shall find he is to go over the Atlantic as an evidence, to the detriment of his family and his fortune, there is no doubt but that he will evade the necessity of his appearance as an evidence. This, Sir, will be a means of subjecting the people

of that country to assassination, in the room of legal trial; and the invariable consequence has always been, that when a fair trial cannot be procured, the revenge of the relations of the deceased will exercise itself in this kind of cruel assassination. I, perhaps, Sir, may be wrong in my ideas; but I have looked into the history of that country with care and circumspection, and it has inspired me with the highest veneration for those who were the first settlers; they emigrated when that Star Chamber doctrine was practised in this country. Oppressed as they thought themselves by the mother country, by the cruelty of those arbitrary laws, sooner than suffer themselves to be oppressed by tyranny, they chose rather to combat with tygers and Indians in America, than live in a place where oppression and tyranny ruled. It is no new thing, Sir, that they have refused to comply with the payment of taxes demanded from this country; this exemption is a very old demand of theirs, and supported by their charter. Imprisonment of two persons, who held this kind of doctrine, was made in the time of sir Edmund Andrews, who was then governor; and the Americans passed a law, declaring that this country had no right to tax; it is true, when that law came over here, it was rejected. Let gentlemen consider, that if we tax America at this present period, her trade and every thing else will decline. I think that Boston has the most merit with this country of any place I know; she is a most valuable ally, or a subordinate colony; take it in either sense, her possession is inestimable; but I really fear very much, that the Americans are to be thus treated without the parties being heard. I do not like to see public liberty and the rights of persons infringed. There are two articles in the Bill, which I cannot blame the Americans for resisting; I mean that of the council and the judges being chosen by the crown: the ancient way which their charter directed of choosing their council, was far more eligible; they were men at a certain age, to which experience generally adds wisdom, that were elected council; but this is a new system, that carries with it neither experience nor wisdom; and I think the change unnecessary, though not oppressive. I think the office of sheriff is more oppressive, because he is an engine of power in the hands of the governor; nor do I approve of taking away the town-meetings; there is but one precedent of this kind to

be found in history; but I could wish, on the present occasion, that a second had not been made. He concluded in praise of the character of Dr. Franklin, whom he called the ornament of human nature; and said he thought him highly praise-worthy, for those very acts for which he had been so much blamed.

Mr. Grey. I think this House and the nation at large, owe their best thanks to the noble lord who has brought forward this business; and I must allow, that nothing but necessity, in urgent cases like these, warrants a deviation from the constitution; the law should not be invaded on every frivolous pretence, but this requires the serious attention of the whole legislature. It would be cruel to the last degree, when your subjects are employed in preserving the peace, not to give them the utmost security in the execution of their duty. But let me ask, Sir, in what situation will that navy and army be, that has no protection for the execution of the laws which you have vested in their hands? Will you leave them a sacrifice to the rapacity of the revengeful dispositions of the relations of those unhappy men who may fall by their hands, in the execution of their duty? I cannot think this Act will operate in any shape to the detriment of the people, if they return to their duty; if that is the case; if they do return, and be obedient, the Act will be a waste piece of paper; but the trial of persons in England will seldom take place, I apprehend, as nothing but the most absolute necessity will drive the governor to have recourse to the Act.

Mr. Paulet observed, that nothing was ever more just than the measure proposed in the Bill before the House; that it was the most cruel thing to let a man lie even one hour in prison, in expectation of being tried by a jury whose minds were biassed; but for the sake of justice, a voyage across the Atlantic would surely be thought, on such an account, an undertaking not pregnant with much danger.

Mr. Sawbridge. I hope, Sir, the House will hear me a few words, as it is the last opportunity I shall have. The opposition I have given to these measures, does not proceed from a settled disposition against administration, nor do I do it for the sake of popularity; it is for the love of that liberty which I have always been strengthened in, and bred up by education. I had rather bear the badge of the parish, than that of apostacy. It has been urged

in debate, that this country has a right to pursue those measures adopted in the Bill, and that necessity is the ground and argument which urges it on: but pray, Sir, let me ask, who is to be the judge of that necessity? A nation, surely, cannot be called a free nation, where another has a right to draw money out of their pockets; but I cannot understand how any one can agree with these measures, and deny the right of taxation. If you exercise an authority which does not belong to you, or if you force an illegal authority, they have a right to resist. I do not see any necessity for bringing over the people to be tried by a jury in England; I think the crown should have lodged a power in the governor to pardon, and I should have thought it the brightest jewel in it on this occasion. You say, that the governor is to use his discretion with regard to the having a fair trial; but by this Bill the governor, I say, is not the judge of that, for it must be upon the oath of a witness; he must believe that witness, and no discretion is left in the governor. No man will become a voluntary evidence on such an occasion; he will sooner fly from that situation, than be transported to England. By that means justice will be evaded, as evidence cannot be had, and the people will soon take upon themselves to revenge their own injuries.

Colonel *Barré*. Sir, I think it criminal to sit still upon the final decision of this question, as I cannot, in any shape, approve of this measure. I think the persons whom you employ to execute your laws, might have been protected in the execution of their duty in a less exceptionable manner than that Bill proposes. Your army, Sir, in that country, has the casting voice; and it is dangerous to put any more power into their hands. Consider, Sir, how long they will be content with 4*d.* per day; I am afraid not long. You have had one meeting already, you may soon have another; the people of America will receive these regulations as edicts from an arbitrary government. The heaviest offence they have been guilty of is, that they have resisted that law which bears such an arbitrary cast. I want to know, if we in this country had not resisted such arbitrary laws in certain ancient times, whether we should have existed as a House of Commons here this day? I object much against the doctrine which I have heard laid down, that the particular exigency of the case countenanced the

measure. I do not apprehend the Americans will abandon their principles; for if they submit, they are slaves: I therefore execrate the present measure, in the manner proposed.

Mr. *Pulteney*. Sir, I will comprise in a few words what I have to say: I do not apprehend that the legislature can tax a particular county, without shewing some degree of partiality to others, nor can they justly do it. I think the principles of this Bill may be tolerably equitable, and I do believe it will produce a fair trial; but as there are some defects in the form in which it now stands, with regard to the errors and flaws that may be in an indictment, I will offer a clause, by way of rider, to give power to a jury in England to find a bill of indictment, in order to correct such a deficiency.

Mr. *Fuller*. Sir, I will now take my leave of the whole plan, and will give you my free opinion of it: you will commence your ruin from this day, if you do not repeal the tax which has created all this disturbance; you will have no degree of confidence with the Americans; people will not trust you when your credit is gone; you may, I say, date your ruin from this day; and, I am sorry to say, that not only this House has fallen into that error, but that the people of this country approve of the measure. I find the people wish for the measures proposed in this Bill, as much as the majority here: it is not all owing to the junto of a ministry that these measures are taken; it is the people at large who, I am sorry to say, are misled: they are in an error, but a short time will prove the evil tendency of this Bill. I think the present Bill bears the least injury of any of the three; but if ever there was a nation running headlong to its ruin, it is this,

Mr. *H. Cavendish*. Sir, I am very glad to hear that there is a majority in this House for these measures; but am much better pleased that the country in general approve of them in as high a degree.

The House divided. The Yeas went forth.

Tellers.

YEAS	{ Mr. Saint John - - - }	127
	{ Mr. Cooper - - - }	
NOES	{ Sir Cecil Wray - - - }	24
	{ Mr. Alderman Sawbridge }	

So it was resolved in the affirmative.

Protest against passing the Bill for re-

gulating the Government of Massachuset's Bay.] May 11. In the House of Lords, the order of the day being read for the third reading of the Bill, entitled, "An Act for the better regulating the government of the province of the Massachuset's Bay, in New England;" and for the Lords to be summoned; the said Bill was accordingly read the third time. It was then moved, that the Bill, with the amendments, do pass, which being objected to, after a long debate, the question was put thereupon. It was resolved in the affirmative. Contents 69, Proxies 23—92; Not Contents 20, Proxies 0—20.

"Dissentient.

"Because this Bill, forming a principal part in a system of punishment and regulation, has been carried through the House without a due regard to those indispensable rules of public proceeding, without the observance of which no regulation can be prudently made, and no punishment justly inflicted. Before it can be pretended, that those rights of the colony of Massachuset's Bay, in the election of counsellors, magistrates, and judges, and in the return of jurors, which they derive from their charter, could with propriety be taken away, the definite legal offence, by which a forfeiture of that charter is incurred, ought to have been clearly stated and fully proved; notice of this adverse proceeding ought to have been given to the parties affected; and they ought to have been heard in their own defence. Such a principle of proceeding would have been inviolably observed in the courts below. It is not technical formality, but substantial justice. When therefore the magnitude of such a cause transfers it from the cognizance of the inferior courts, to the high judicature of parliament, the Lords are so far from being authorised to reject this equitable principle, that we are bound to an extraordinary and religious strictness in the observance of it. The subject ought to be indemnified by a more liberal and beneficial justice in parliament, for what he must inevitably suffer by being deprived of many of the forms which are wisely established in the courts of ordinary resort, for his protection against the dangerous promptitude of arbitrary discretion.

2dly, "Because the necessity alledged for this precipitate mode of judicial proceeding cannot exist. If the numerous land and marine forces, which are ordered to assemble in Massachuset's Bay, are not

sufficient to keep that single colony in any tolerable state of order, until the cause of its charter can be fairly and equally tried, no regulation in this Bill, or in any of those hitherto brought into the House, are sufficient for that purpose; and we conceive, that the mere celerity of a decision against the charter of that province, will not reconcile the minds of the people to that mode of government which is to be established upon its ruins.

3dly, "Because Lords are not in a situation to determine how far the regulations of which this Bill is composed, agree or disagree with those parts of the constitution of the colony that are not altered with the circumstances of the people, and with the whole detail of their municipal institutions. Neither the charter of the colony, nor any account whatsoever of its courts and judicial proceedings, their mode, or the exercise of their present powers, have been produced to the House. The slightest evidence concerning any one of the many inconveniences, stated in the preamble of the Bill to have arisen from the present constitution of the colony judicatures, has not been produced, or even attempted. On the same general allegations of a declamatory preamble, any other right, or all the rights of this or any other public body, may be taken away, and any visionary scheme of government substituted in their place.

4thly, "Because we think, that the appointment of all the members of the council, which by this Bill is vested in the crown, is not a proper provision for preserving the equilibrium of the colony constitution. The power given to the crown of occasionally increasing or lessening the number of the council on the report of governors, and at the pleasure of ministers, must make these governors and ministers masters of every question in that assembly; and by destroying its freedom of deliberation, will wholly annihilate its use. The intention avowed in this Bill of bringing the council to the platform of other colonies, is not likely to answer its own end; as the colonies, where the council is named by the crown, are not at all better disposed to a submission to the practice of taxing for supply without their consent, than this of Massachuset's Bay. And no pretence of bringing it to the model of the English constitution can be supported, as none of those American councils have the least resemblance to the House of Peers. So that this new scheme

of a council stands upon no sort of foundation which the proposers of it think proper to acknowledge.

5thly, "Because the new constitution of judicature provided by this Bill is improper, and incongruous with the plan of the administration of justice in Great Britain. All the judges are to be henceforth nominated (not by the crown) but by the governor; and all (except the judges of the superior court) are to be removable at his pleasure, and expressly without the consent of that very council which has been nominated by the crown.—The appointment of the sheriff, is by the will of the governor only, and without requiring in the person appointed any local or other qualification; that sheriff, a magistrate of great importance to the whole administration and execution of all justice, civil and criminal, and who in England is not removable even by the royal authority, during the continuance of the term of his office, is by this Bill made changeable by the governor and council, as often, and for such purposes as they shall think expedient.—The governor and council thus entrusted with powers, with which the British constitution has not trusted his Majesty and his privy council, have the means of returning such a jury in each particular cause, as may best suit with the gratification of their passions and interests. The lives, liberties, and properties of the subject are put into their hands without controul; and the invaluable right of trial by jury, is turned into a snare for the people, who have hitherto looked upon it as their main security against the licentiousness of power.

6thly, "Because we see in this Bill the same scheme of strengthening the authority of the officers and ministers of state, at the expence of the rights and liberties of the subject, which was indicated by the inauspicious Act for shutting up the harbour of Boston. By that Act, which is immediately connected with this Bill, the example was set of a large important city (containing vast multitudes of people, many of whom must be innocent, and all of whom are unheard) by an arbitrary sentence, deprived of the advantage of that port, upon which all their means of livelihood did immediately depend. This proscription is not made determinable on the payment of a fine for an offence, or a compensation for an injury; but is to continue until the ministers of the crown shall think fit to advise the king in council to

revoke it. The legal condition of the subject (standing unattainted by conviction, for treason or felony) ought never to depend upon the arbitrary will of any person whatsoever. This Act, unexampled on the records of parliament, has been entered on the Journals of this House as voted *nemine dissente*, and has been stated in the debate of this day, to have been sent to the colonies, as passed without a division in either House, and therefore as conveying the uncontroverted universal sense of the nation. The despair of making effectual opposition to an unjust measure, has been construed into an approbation of it. An unfair advantage has been taken on the final question for passing that penal Bill of the absence of those lords, who had debated it for several hours, and strongly dissented from it on the second reading; that period on which it is most usual to debate the principle of a Bill. If this proceeding were to pass without animadversion, lords might think themselves obliged to reiterate their debates, at every stage of every Bill which they oppose, and to make a formal division whenever they debate.

7thly, "Because this Bill, and the other proceedings that accompany it, are intended for the support of that unadvised scheme of taxing the colonies, in a manner new, and unsuitable to their situation and constitutional circumstances. Parliament has asserted the authority of the legislature of this kingdom, supreme and unlimited, over all the members of the British empire. But the legal extent of this authority furnishes no argument in favour of an unwarrantable use of it. The sense of the nation on the repeal of the Stamp Act was, that, in equity and sound policy, the taxation of the colonies for the ordinary purposes of supply, ought to be forborn; and that this kingdom ought to satisfy itself with the advantages to be derived from a flourishing and increasing trade, and with the free grants of the American assemblies; as being far more beneficial, far more easily obtained, less oppressive, and more likely to be lasting than any revenue to be acquired by parliamentary taxes, accompanied by a total alienation of the affections of those who were to pay them. This principle of repeal was nothing more than a return to the ancient standing policy of this empire. The unhappy departure from it, has led to that course of shifting and contradictory measures, which have since given rise to such

continued distractions; by which unadvised plan, new duties have been imposed in the very year after the former had been repealed; these new duties afterwards in part repealed, and in part continued, in contradiction to the principles upon which those repealed were given up; all which, with many weak, injudicious, and precipitate steps taken to enforce a compliance, have kept up that jealousy, which on the repeal of the Stamp Act was subsiding; revived dangerous questions, and gradually estranged the affections of the colonies from the mother country, without any object of advantage to either. If the force proposed should have its full effect, that effect we greatly apprehend may not continue longer than whilst the sword is held up. To render the colonies permanently advantageous, they must be satisfied with their condition: that satisfaction we see no chance of restoring, whatever measures may be pursued, except by recurring, in the whole, to the wise and salutary principles on which the Stamp Act was repealed. (*Signed*) Richmond, Effingham, Leinster, Portland, Ponsonby, Craven, Abingdon, Rockingham, Fitzwilliam, King, Abergavenny."

Debate in the Commons on a Motion for Relief to the Clergy in the Matter of Subscription to the 39 Articles.] May 5. The order of the day being read,

Sir William Meredith rose, and in a laboured speech, complained much of the hardships attending those persons who could not subscribe to the 39 Articles; he gave the House a history of the different religions of Calvin, Luther, and the Arminians; he mentioned the case of Mr. Lindsey, who, he said, was obliged to give up the emoluments arising from the church, because he did not think the Articles were right. A person, he likewise mentioned, who had been persecuted for deviating from the rules prescribed in the Prayer Book, and concluded with moving, "That this House will, upon this day sevensnight, resolve itself into a committee of the whole House, to consider of a method of granting relief to the clergy of the church of England, in the matter of subscription to the 39 Articles."

Sir George Savile rose, and seconded the motion.

Sir Roger Newdigate answered all sir William's objections, and threw many reasons before the House why no alterations

should be made. He was severe on sir William, and concluded with saying, that the worthy baronet had not considered that his Majesty, at his coronation, took an oath that he would not alter the established religion of the church of England; and that, should his motion have the luck to pass both Houses, when it came to his Majesty to give his assent, he would say, 'Is this the recompence you make me in return for making you Comptroller of my Houshold? You have reduced me to the disagreeable dilemma of either refusing to comply with my faithful Lords and Commons, or to commit direct perjury.'

Lord North coincided entirely with sir Roger, and shewed the House the absurdity of appointing a committee above stairs to consider of such sacred things, which, he said, he did not think that House a proper judge of; that the committee would come down stairs, and say, we have considered this and that; agree, agree; and we should then probably overturn all the established religion of the land, which has been almost universally admired for nearly two centuries, and by a single act of parliament alter the way of thinking of every person in the land.

Sir George Savile rose, and in a masterly manner stated many objections to the noble lord's and sir Roger's arguments, and said, he should be strongly for a committee being appointed.

Mr. Edmund Burke in a masterly speech of upwards of an hour (at the first part of which the House was in a continual laugh) went through the whole of the arguments used last year and now, in the business. He was severe and pointed upon sir William, saying, that he must always rise with great diffidence when he disagreed with the right hon. member who was so universally known, and so remarkably distinguished for his noble uniformity of conduct, and who must be allowed by all parties to be an unblemished and unshaken senator. That he should have imagined the motion in question would have no weight, had it not been made by the right hon. member, who to be sure, had not the wisdom of Moses, although he was now possessed of the rod of Aaron. [Sir W. Meredith, as a mark of his office of Comptroller of the Houshold, carried a white wand.] He said the right hon. member formerly used to think the church was better off than the state, but since his preferment he had changed his mind, and now thought the state in a very fair way, and the church very

badly off; he said he should always be for having one grand religion, and allowing liberty for every person to embrace it, that thought proper; he concluded with saying that this motion would, if agreed to, turn the House of Commons into a cock-pit of religious controversy, where they never would be able to get out, being encompassed in a circle made by the right hon. member's magic wand.

Lord *Geo. Cavendish* was for a committee being appointed; he said, he agreed with the hon. member who spoke last, that there should be one grand national church, and that free toleration should be granted to every person to think as he pleased.

Lord *Carmarthen* spoke much to the purpose, and was of the same opinion as Lord North.

Mr. *Montague* spoke strongly against the motion, and agreed with the arguments made use of by sir Roger Newdigate and Mr. Burke.

Sir *Richard Sutton* spoke a few words in support of the motion.

The question being called for aloud from all parts of the House, the gallery was ordered to be cleared, but on the question being put, there did not appear to be above twenty Ayes, and the Noes made so strong a sound, that sir William Meredith declined dividing the House. The motion was accordingly negatived.

Resolutions in the Commons respecting the State of the Gold Coin.] May 10. Sir Charles Whitworth reported from the committee of the whole House, to whom it was referred to take into consideration the state of the Gold Coin of this kingdom, the following Resolutions:

1. "That the gold coin of this realm has been greatly diminished, by clipping, filing, and other evil practices, particularly of late years, in violation of the laws of this realm and to the great detriment of the public; so that the several pieces of unlawful diminished gold coin, which have been received into the Bank at the Mint price, in pursuance of the directions from the commissioners of his Majesty's Treasury, of the 23rd of July 1773, amounting in value to the sum of 3,418,960*l.* 15*s.* 4*d.* have been found to be deficient, upon an average, at least nine per cent.

2. "That part of such of the gold coin now remaining in circulation, as was coined before the accession of his present Majesty, is deficient in weight 5*l.* per centum; and that a part of so much thereof, as hath

been coined during the reign of his present Majesty, before the 1st of January 1772, is deficient two and an half per centum.

3. "That it has been a practice to export and melt down the new and perfect gold coin, soon after it is issued, for private advantage, to the great detriment of the public.

4. "That while pieces of gold coin, differing so greatly in weight, are allowed to be current under the same denomination, and at the same rate and value, great quantities of the new and perfect pieces will continue to be exported and melted down: and, there is reason to apprehend, will be re-coined into pieces the most deficient that are allowed to be current.

5. "That, to prevent the mischiefs to which the public are thus exposed, it is proper that all guineas, weighing less than five penny-weights eight grains; and all half guineas, weighing less than two penny-weights sixteen grains; and all quarter guineas, weighing less than one penny-weight eight grains, be called in, and be re-coined.

6. "That the said guineas, half guineas and quarter guineas, be called in by degrees; and that it is proper to proceed therein as fast as the occasions of circulation will allow, and as the officers of the Mint are able to re-coin the same.

7. "That, for the purpose of calling in the said guineas, half guineas, and quarter guineas, it is proper that certain days be appointed, after which they shall not be allowed in payment, or to pass, except only to the collectors and receivers of the public revenues, or to such persons as shall be appointed by his Majesty to receive and exchange the same; and that certain other days be appointed, after which they be not allowed to pass in any payment whatsoever, or to be exchanged in manner before-mentioned.

8. "That all such guineas, half guineas and quarter guineas, be re-coined according to the established standard of the Mint, both as to weight and fineness.

9. "That the public bear the loss arising from the deficiency and re-coinage of the said guineas, half guineas, and quarter guineas; provided such deficiency does not exceed the rates settled by the order of the commissioners of his Majesty's Treasury, of the 23d of July last, and provided they be offered in payment to the receivers or collectors of the public revenue, or are brought to such person or per-

sons, as shall be authorized to receive and exchange the same, within the times to be appointed according to the foregoing resolutions.

10. "That the methods of coining hitherto invented, for the purpose of preventing the unlawful diminishing of the gold coin of this realm, by clipping, filing, and other evil practices, and the laws hitherto enacted for the punishment of those that are guilty thereof, have been found to be ineffectual.

11. "That the only effectual method of preserving the gold coin from being unlawfully diminished, and of preventing the mischiefs to which the public is thereby exposed, is, that the said coin should be current by weight, as well as by tale.

12. "That the most convenient method of making the gold coin so current, is, that every person who shall receive in payment any piece or number of pieces of such coin deficient in weight, shall be entitled to receive a compensation for the said deficiency from the person tendering the said coin.

13. "That such compensation be at the rate of one half guinea for every sixty-five grains, and in the like proportion as near as conveniently can be, for every grain under sixty-five, according to such table or tables as his Majesty shall cause to be published, from time to time, for that purpose.

14. "That considerable quantities of the old silver coin of this realm, or silver coin purporting to be such, greatly below the standard of the Mint in weight, has been lately imported into this kingdom.

15. "That it be made unlawful to import into this kingdom, or Ireland, from foreign countries, any of the silver coin of this realm, or any silver coin purporting to be such, that is not of the established standard of the Mint in weight and fineness; and that the same, if seized, be made subject to confiscation.

16. "That for a limited time, the silver coin of this kingdom be not allowed to be legal tender in the payment of any sum exceeding 50*l.*, but according to its value by weight, after the rate of 5*s.* and 2*d.* per ounce.

17. "That there be made, under the direction of the officers of his Majesty's Mint, one weight of a guinea, and one weight of a shilling; and also other weights, being parts and multiples of the said guinea weight and shilling weight, according to the established standard of this

[VOL. XVII.]

realm; which several weights, after they have been ascertained by the report of the said officers, and approved by his Majesty in council, shall be the standard weights for regulating and ascertaining all weights to be made use of for weighing the gold and silver coin of this realm, and shall be lodged in the custody of an officer, to be appointed for that purpose, with a salary, to be paid out of the coinage duties; and any weights, which shall from thenceforth be made use of for weighing the gold and silver coin of this realm, shall not be reputed and taken to be true and perfect, unless they have been first compared with the said standard weights; and, in testimony thereof, marked by the officer to whom the custody of the said standard weights shall be entrusted."

The said Resolutions were agreed to by the House. And it was resolved, that an Address be presented to his Majesty, upon the 1st, 2d, 3d, 4th, 5th, 6th, 7th, 8th, and 9th Resolutions: and also, That a Bill or Bills be brought in pursuant to the 14th, 15th, 16th, and 17th Resolutions.

Debate in the Commons on the Budget.]
May 18. Lord North this day opened the budget. When he had stated the accounts, he went on with saying it had been daily repeated, that no part of the national debt had been paid off since the conclusion of the peace. This he said was untrue; for although the funded debt was rather increased, the unfunded was diminished from 13,000,000*l.* and a fraction, to 2,000,000*l.* and a fraction; so that, balancing the increase of the funded against the decrease of the unfunded, it would appear that 8,000,000*l.* and a fraction of national debt had been paid off within the last ten years, which reduction produced a saving of 360,000*l.* per annum to the nation.

But it seems, from what has been pretty often dropped in this House, and even without doors, that notwithstanding the affairs of this country are in so good a situation, yet, taken relatively to those of France, they are in a very bad situation; this has been produced as a matter of terror, reproach, and example to those who are concerned in the administration of affairs here. Sir, I shall desire to go a little into this circumstance, but first I must premise, that an accurate knowledge of the French finances is to be had by very few. I do not believe there is a person out of the offices in that country that

[4 Q]

knows much of the matter with accuracy; but it is easy for a gentleman of quick parts to travel into France, and gain that kind of information, to hold forth, and to persuade people who know nothing of the matter, that he knows something of the matter (meaning colonel Barré). Sir, the French finances are not transacted in a House of Commons, or a committee of supply, but in private chambers: it is the glory of this country that all the world knows what England owes, and what England can pay; but in France all is private, the resolutions of the cabinet are followed only by edicts, and these are so contradictory, so voluminous, and so multifarious, that it is a science to understand them; even the bankers of Paris, who have any business, find it impossible to make themselves masters of the French funds, and employ brokers, whose only business it is; then, Sir, when I pretend to tell you what is the present state of the finances of that country, I cannot pretend to accuracy; I leave those pretensions to gentlemen of more eloquence and greater vivacity (looking at colonel Barré).

Sir, I have three accounts of the French finances, as they were in the year 1772, and also last year; these accounts agree in the main pretty well, and are, I believe, very much to be depended upon in the principal parts, though not, as I before observed, with any minute accuracy. By one of these accounts the revenue is 359 millions of livres, or about 13,500,000*l.* at the present rate of exchange: another account makes it 14,000,000*l.*; this receipt is larger than it was in 1763, for several new taxes have been laid upon the people, the farms have been renewed and raised, and other circumstances have happened to increase the gross revenue: my accounts make the expenditure, in 1764, exceed the whole receipt by 700,000*l.* sterling; and in 1772, after all the additions made to the revenue, after all the acts of power which had reduced the debts, and after every exertion of which we have heard so much, still the excess of expence was then 300,000*l.* sterling: this is, Sir, upon the lowest and most moderate account; but I have very great reason to suppose that it is much under the truth, from another undoubted circumstance, which is, that since 1763, they have contracted in ten years, sixteen millions sterling of new debt; this is certain, and consequently, the excess of their expence must have been greater than 700,000*l.* a year.

I find the whole military expence of France set down at something more than 5,000,000*l.* sterling; but upon this article I have great doubts: the '*extraordinaire de guerre*' includes only common articles of expence, and even part of the actual pay of the men; but gentlemen who reflect on this matter will be certain there must be some after-clap of no slight consequence.

Besides the military roll, there are the articles of the expences of the king and the court, which are various and indefinite, and rising to such sums as I dare say make their comptrollers in general tremble. There is also the interest of their debts; upon this article I must dwell a little, because the conduct of the present minister in that country has been held up, both within doors and without, as a pattern which the ministry in England ought to follow. The means taken to support the finances of France are these:

In the first place, Sir, the *caisse d'amortissement* was applied to the sinking of the capitals; this being the sinking fund, it seems no great matter, for our sinking fund is applied to the same purpose, but it was shut up; however, Sir, the sinking fund of France is quite another affair from that of England. Upon the great burthen of debts which loaded the government in 1763, out came an edict, very well written, as all their edicts are, setting forth, that the necessities of the state rendered it absolutely necessary to lessen the debts of the public; that for this purpose his majesty found it necessary to take a portion of their annual interest, and form it into a fund for the payment of their own debts, a system something different from the fund in England for paying debts. Well, the next thing he did was to divert this very fund to the current service of the year, which had been formed from their interest for the payment of their capital.

Now, Sir, let us turn to the next measure of finance for the reduction of debt; this was in the tontines; we have nothing in England that resemble them, and therefore I cannot translate it; but the operation was, at one stroke, to reduce perpetual securities to life annuities, that is, to cut off the survivorship. The next thing was to go to work with many different funds bearing interest, some 8 per cent. some 7, others 6, and others 5; all these were by another act of power, for the sake of a beautiful symmetry, reduced to $2\frac{1}{2}$ per cent. Next, Sir, there is a fund in

France which has ever been held sacred, and through all former acts of power escaped the violence of the financiers; it is the perpetual annuities secured on the Hotel de Ville: such an infinite number of people in all parts of France are concerned in the stability of this fund, that it was supposed to be the last that a minister would dare to touch; yet, Sir, this did not escape: under the pretence of paying off part of the capital, the payments were made in billets de Roi, which, from 100 fell immediately to 60, and that 60 funded anew.

Besides these operations on the funds, other measures were used, which have rather a better appearance; the farmers general were very severely treated in the debts due to them by the crown; but as they were much hated in France, this measure was approved: though certainly, in the light of public creditors, they ought to have been respected. Another measure was a reduction of pensions, which at first sight may carry a popular appearance, but, upon examination, it will not be found judicious. In France, very many people, after spending early all their fortunes, and passing the greatest part of their lives in the service of the public, retire upon little pensions, the all they have to live upon; to reduce such, I must call a violent, cruel, and impolitic measure.

Now, Sir, I must observe on these various stretches of power, that they must by no means be called regular operations of financial abilities, since it is very plain, that a comptroller general might as well be called a great minister from his expedition and spirit in applying the dash of a pen to all the debts of France, and wipe them out at one stroke. Is there any gentleman that would wish to see similar operations going forward in England? Is there any gentleman that would think this country so much the richer, and more powerful, because its debt was extinguished by such a mode of proceeding? Is it not apparent that France therefore, from a similarity of reasoning, is by no means more wealthy or more powerful from having practised those acts of power?

I shall next take the French affairs in another point of view. Notwithstanding these repeated, and, I may say, tyrannical acts, she is still involved in an enormous debt, for it is very little sunk! that is, not near so much by this conduct as at first sight would be supposed. Let us take a view of their funds: by the new created debt since the peace, and that occasioned

by the war, a man possessing stock may make about 71 per cent. by his capital. These funds, Sir, are now, and have been for a year, at 32, that is, at no less than 68 per cent. discount, and there are none of these debts higher. That stock, which it is very well known in France from many circumstances will be the last that is tampered with, is at 27 per cent. discount: can this view of the present state of the credit of France reasonably suggest alarm to the friends of this country? So very far is the representation we have heard of the French finances from being a true one, that the very rescriptions which are formed out of former debts, and which somewhat resemble our Exchequer-bills, and which are lessened as fast as the efforts of the French ministers can effect it, these, Sir, are yet circulating in the market at the monstrous discount of more than forty per cent. and from this circumstance I think, we may fairly and clearly deduce, the utter impossibility of the French minister's violent measures having had such an effect as some persons would persuade us: and if, Sir, all these exertions of power, and this continued flagrant violation of all the principles and practices of public credit, if these efforts have not been able to free them from more than a very inconsiderable portion of debt; and knowing at the same time that they have contracted sixteen millions of fresh debts since the peace: nothing can be clearer from all this than the utter impossibility of what has been said of the flourishing state of their finances. And at the same time, Sir, that we know these circumstances, we likewise know how much the people have been impoverished and oppressed by continuing the taxes of the war, and also by laying on new taxes since the peace.

It has been said, Sir, that the death of the king of France will endanger the peace; and the idea of the new monarch being an œconomist is connected with it, in order to make us tremble. But, Sir, if the new king is an œconomist, he will not break the present peace with his neighbours, in order to plunge into all the difficulties which a war would bring upon him. If he is an œconomist, he will find work enough in his own finances to keep him employed.

Sir, the ministry in England have been much reflected on, not only for being bad managers, but it has been said they ought, in imitation of the comptroller general in France, to lay new taxes. Sir, our ex-

pences certainly run very high, and to render them easier, new taxes might be devised; and when parliament thinks proper to lay taxes, I shall not oppose it; but I must observe, that our great expences arise from large establishments: these, both by sea and land, were after the peace thought necessary, partly on account of our conquests, and partly for security in peace. There was a measure, Sir, adopted before the last war, which then, I suppose, was found necessary, and certainly had great effects; I mean the seizing the French ships before the declaration of war. But that measure, necessary and useful as it might be, could not, cannot be forgotten; and it might and was thought proper to keep up a greater force than on former occasions, in order that we might not be taken ourselves unawares, and have others go to work with us, with as little ceremony as we attacked them. But, Sir, whether this has been just or not, certainly the gentlemen on the other side of the House have little reason to reproach administration for not laying taxes: let them reflect, Sir, on a tax which was laid, upon the maturest consideration, upon a consumption not taxed before, called for by every rule of equality, and so light, though at the same time productive, that scarce any body could feel it. Every gentleman will see I mean the cyder tax: that tax, Sir, against which there never were two syllables of common sense urged, was repealed upon the cry of liberty being in danger: the exciseman will invade our houses, castles, if you please; yet a small composition would have kept out the exciseman, so that to a gentleman of 4,000*l.* a year, the payment would have amounted only to 40*s.* a year. Unhappily, however, for this country, the cyder counties gave us financiers, and the tax was repealed.

There was another tax, Sir, a well known, common, and customary grant, an annual tax, and the amount little felt by the interest that paid it, that, Sir, was lost; much, I am sure, to the disappointment of me, among others, who found ourselves in the minority. Those gentlemen, therefore, who promoted the repeal of the cyder duty, and voted for taking off the one shilling of the land-tax, have surely very little reason to reproach administration with not laying on fresh taxes: and they should recollect the very different situation of France, at this period, from that which has now been mentioned as the system of England.

Colonel *Barré*. The noble lord has done what is very unusual with him, he has quitted his usual defensive ground, and taken an offensive part; but he has fixed his day of triumph for it, when he chooses his own ground, makes his own representation, and gives us just as much of every subject as suits his purpose. I have had, however, shot for shot with the noble lord, and should not now take up the time of the House, had I not been so pointedly called upon.

The noble lord has accused me of endeavouring to deceive the House in relation to the state of France; but I have offered no information in any point, which I did not receive from authority that appeared good; and I must remark that in the material article, the degree to which their debts are lessened, he speaks entirely from conjecture, not in the least upon positive information, good or bad. Before I enter more particularly on this matter, I must congratulate the House on the attention which the noble lord has given to the French affairs. I really believe he has employed from the 13th [the day when colonel *Barré* spoke of the state of France] to this day, the 18th, in making up his French budget, which upon the whole is very well put together, and in several particulars agrees with the information I gained when in France. The noble lord's accounts make the total revenue from thirteen to fourteen millions; my authority is extremely positive for sixteen millions. And in the article of debts paid, and interest reduced, our accounts disagree so totally, that I can by no means reconcile them, in so much that I find not the least reason to allow the conjectures he has made on this head; for if the gain of interest has not been more than a few hundred thousand pounds a year, and if they have run in debt a fresh sixteen millions, in the name of common sense for what purpose, and to what effect have all those enormous acts of power, to the destruction of credit, been entered into? My information is directly contrary, and the plain reasoning of his lordship's own facts confirms it. So many funds reduced from seven, six, and five per cent. to two and a half, and so little profit made by it! It is a contradiction.

But, Sir, there is another circumstance, these revenues are to be viewed in time to come with a very different eye from what has passed. The period following the peace abounded necessarily in a load of

expence, and I know, on good authority, that their three last marriages cost them very little less than two millions sterling. These, and several other articles of expence, are past, and will not return. The noble lord states the military expence at five millions; it is the same in my account; this is not a third of their revenues; whereas ours amount to four millions, or very near half, a confirmation of what I advanced on a former occasion, that our military establishment was greater than that of France. I spoke of that country as an object of terror; I repeat it again; I repeat that such an immense revenue, raised upon the worst of systems, and consequently open to prodigious improvements, with a debt lessening (no matter by what operations, for every operation frees the revenue) every instant, with a future prospect, nay certainty, of not having a return of many burthensome expences. I repeat that these circumstances are, and ought to be, objects of terror to this country. We should reflect, that if the new monarch has the least turn to national œconomy; if his ministers make innovations in the mode of levying their taxes; if improvements extremely easy to be executed are adopted, that the revenue, large as it is, would be greatly increased, at the time that the people were eased. These are resources of which you have nothing similar. These are resources of which the noble lord has taken no notice; the king has taken upon him the debts of the *pais d'état*, and also the taxes which pay the interest, to a very great amount; the receipt in this case is certain and permanent; but as to the expence of interest, we may all suppose what that will be whenever necessity calls: yet this is an object of some millions sterling. Another circumstance is that of the monasteries; an inquisition has been taken, and many have been found with only three or four fat friars in them, though the revenue is ample; it was said to them, this income is more than you can know how to spend properly; you might surely unite with your neighbour, and one rental support you both. Sacrilege was the reply; the church was in danger; their institutes would be trampled on. Well, it was said, let us examine these institutes; if you have, in other parts of your conduct, complied with the terms of those institutes, very good; if not, you cannot complain. This matter was soon dispatched; the monks were

forced to be silent, while one half of their revenues were seized. In the empty monasteries, seminaries for the education of youth were established, but in the power and patronage of the crown; which by a very easy transition may convert them into military academies, into barracks, or whatever else it pleases. These I call resources, great resources, because they may so easily be made the fruitful mother of a thousand more. This is an art well understood in France; precedents are great things, and special use will by and by be made of these two articles.

I have always considered myself as well employed with relation to my own country, when I made use of my leisure in travelling over foreign ones, with a view to gain information concerning their political state. I have lately been in the remotest parts of France; if the noble lord's conclusions are just, which he draws from the state he has given us of French credit, that country must be miserably oppressed and devoured with taxation, rather than taxed with judgment. It may be so; but I will tell the noble lord what I saw in every part of France. I saw every sign of a flourishing state; an immense cultivation; agriculture highly flourishing; improvements every where going on; a prodigious population, &c. In a word, Sir, oppress that people as much as you will; yet is there that spirit of industry, seconded by such a climate, and such a soil, that she will flourish in spite of fate. Every one knows to what she was reduced; every one who has lately been there knows, or might know, how much she is recovered. Her ports are filled with commerce; her towns with manufactures; her territory is covered with cultivation; her population is boundless; and the quantity of gold and silver, not paper, circulating in the kingdom, is what we have no conception of with all our wealth. Now, if the noble lord persists in telling us of the oppressions, taxes, and want of faith in the French ministry, then I reply, what a country must that be, what immense resources must she possess in a better conduct, that can, under her present oppressions, carry so many undeceiving appearances of being both flourishing and formidable? And am I not justified in my apprehensions, that the real source, extent, and nature of her power are ill understood, when they are lightly treated?

Am I not also justified in saying, that

this country is wasting, in an enormous peace establishment, that wealth which she ought to reserve for a day of need? The noble lord admits that the navy is too great, and that in future it ought to be reduced. But he qualifies this with so many ifs, that he must be an indifferent observer who does not foresee what the reduction will be. That the noble lord is, at bottom, of my opinion, I am convinced; but, alas! Sir, a part of our system of government is, that each great officer should be independent; we want that great controuling power which should keep all lesser powers in order; without this, it is a farce to talk of œconomy or finances; and when we reflect on this, what will be said to another budget being opened in another assembly, as I am told (for I cannot know it personally, thanks to that disgraceful exclusion of us from the House of Lords, as if we were pickpockets) by a noble lord, who insists that the navy shall not be lessened, and whose credit with the King is great enough to controul the treasury itself: from hence may we not learn, I say, what hope there is of this reduction?

The noble lord carried us to India, and gave us his conversation with the directors: the directors! 'Ce sont les Directeurs!' ridiculous to give them that title! Knows not every man the effect of your regulating acts last sessions; that his lordship's secretary, nay, his secretary's secretary, has nothing to do but to go with the least hint or intimation that such promotions would be agreeable to the treasury, they are obeyed; it is done; it must be done; and shall we then be told, that the crown, instead of adding wealth and prosperity to the nation, has not filched the power and patronage of that company!

Mr. *Edmund Burke*. The noble lord has taken such a circuit, that it will be no easy matter to follow him; he has encompassed the world, gone into all parts of the globe; given an historical detail which includes the operations of ages, and touched upon every circumstance in the administration of affairs, that can either call down applause or raise resentment; and not content with giving an account of the services and ways and means of this country, he has translated the budget of the Abbé de Terray, and examined, by the nicest rules of criticism, the management of the French finances. Not content with this, he has taken a new office upon him,

and carried up a complimentary address to the new monarch at Versailles; he has given him encomiums—he is prudent, pacific, and an œconomist. All this is a very great scope; great enough, Sir, and sufficient for the noble lord's abilities, without going out of his way to insult the character of a man not present to defend it—of a man, Sir, who has abilities to reply to the noble lord's eloquence, and whose firmness, integrity, and love of his country render him a proper object for attacks from the noble lord. He has told us, that the western counties being fertile, not in the production of apples only, but of financiers, the Cyder Act came to be repealed. While they are fertile in the production of such men as my right hon. friend, they produce the greatest and most glorious crops that can honour or adorn a country. Sir, the composition which the noble lord speaks of was the disgrace of that tax, as it is of all others. A man of 4,000*l.* a year could compound for 40*s.* but how could the cottager compound? What a farce to rest the oppression of a tax on the wealthy, who can buy it off!

With relation, Sir, to that part of the noble lord's speech to which he made such haste to get—the state of France, I readily allow the information which I have been able to get, some of which I have reason to believe is very good, pretty much confirms the account the noble lord has given. I cannot agree with my hon. friend (col. Barré) in his ideas of the point. France certainly cannot be in any flourishing situation, while her finances carry such an appearance; these depend on the wealth of the people; and if they were so rich, the Exchequer would taste the sweets of it more. Besides, Sir, the expences are beyond all measure ruinous; I have pretty good authority for saying, that the king draws after him a personal expence of between three and four millions sterling; and this is an article so rooted, and so vicious in its principle, that no act of the minister's can either lessen or controul it. There is another article which does not appear in the military roll, which is that of fortifications; it is amazing what a sum of money is expended, or at least lavished under this head. Several well-informed persons have assured me, that this article equals the annual pay of all the troops; and in its very nature it is open to an infinity of abuses. Certain it is, that they have great re-

sources in the system of their taxation; that no body can deny; how likely they are to adopt improvements is another matter. But the noble lord, in his panegyric on the new king, tells us, that if he is an œconomist, he will not go to war with his neighbours; but can the noble lord want to be told, that princes may be œconomists for very different than pacific views? Let him turn his eyes towards the great master of politics and oppression, the Prussian monarch, who is a very pattern of œconomy, and for what purpose, but to keep immense armies, which he pours into the territories of his neighbours with as little conscience as notice? This might convince him, that the French monarch is not the less to be dreaded on account of œconomy.

The noble lord, with much exultation, very ill-placed, I think, has told us the national honour does not consist in being the busy meddlers in every European quarrel; and in terms which wanted no explanation, severely condemned the whole system of British politics from the Revolution. He has his system, we well know, though not the author of it; but he and his friends would have been more consistent, had the least opposition ever once been heard from them to continental measures, when in their meridian. But the system is that of blindness and infatuation, held forth as an excuse for that conduct which saw Corsica seized in one part of Europe, and Poland dismembered in another, with the most torpid indifference; when, by having a little of that busy spirit of intermeddling, both might have been prevented by mere force of negociation, had the powers of Europe any respectable idea of this country, once the refuge and protectress of distressed nations. But the time will come, when the new system will be seen in all its impotence and folly; and when the balance of power is destroyed, it will be found of what infinite consequence its preservation would have been.

The noble lord has apologized for the greatness of our military establishment, by telling us that our enemies may begin with us in the next war with as little ceremony as we began with them; but herein he speaks against reason and experience. A great establishment may impoverish, but cannot preserve you; it is impossible for you to have one sufficient for that; if you are secure of peace, it will be too great; if you are in real danger of war, it will ever be too small and insufficient in

the hour of want; it is also useless, for a nation can never be surprised; it is talking absurdly to suppose it; a minister that finds himself unexpectedly in a war would deserve to be hanged for a blockhead. Watch the merchants, who read the political hemisphere admirably, and whose motions will always tell you where they apprehend a storm. It is impossible for a minister of sagacity to be deceived; he will have notice sufficient when any state intends hostilities long enough to prepare for it. But for what do you keep ambassadors, those licensed spies? Are they sent to all the courts of Europe in order to render their country ridiculous? What a bungling system of politics it must be, where a minister is possessed of every means of certain intelligence, and yet talks of a great peace establishment as a means of security against a surprise. Here, therefore, is an instance wherein administration might, upon the principles now avowed, save millions every year to their country.

The noble lord has thrown out much ridicule on those he is pleased to call the Orators. He tells you, sarcastically, that the House is much obliged to gentlemen who will take the trouble of opposing administration, in order to keep up a proper spirit of enquiry. Upon my word, Sir, that man who sticks honestly and sincerely to opposing what he thinks a bad administration, and who persists in it, while others, equally professive, gradually are tired and fall off, is a true and sincere friend to his country; is honest, and not that contemptible being which ministerial followers are so fond of representing him. There are such men in this House, and I trust and hope it never will be without them.

Mr. Dempster. I do not rise, Sir, in consequence of the honourable privilege with which the noble lord would indulge the gentlemen on this side of the House; the privilege of orators in Chancery, who, as such, may ask impertinent questions, and commit errors and mistakes in their bills without incurring the censure of that court; I rise, Sir, in a nobler capacity; I rise in behalf of my constituents, by whom I am appointed and authorised to defend their property, and maintain their rights in the high court of parliament: and I rise, Sir, late as it is, to ask a question or two which the noble lord, as administrator of their money in the treasury of the public, is bound to answer, and will, I make no doubt, answer, though not upon oath,

with the veracity of a defendant in the court of Chancery.

The noble lord, Sir, has gone very largely into the wide field of debate, which the business of this day opens. He has entertained, informed, and instructed the committee, and no member of it has heard him with more pleasure than myself: but the noble lord stopped short where I could have wished him to have gone on. I am left, and the committee, I believe, is also left with me, in the dark as to two very important points for their consideration. The first point is, what share of the public and usual revenue of the state will be this year employed in the discharge of our national debt? The second point is, whether our annual revenue is decreasing or increasing? Both are important. I will therefore venture to trespass for a moment upon the patience of the House, to mention what occurs to me concerning them. In regard to the first point, I fear, Sir, it will not be found that much of our revenue has been employed in discharging our debt, the great use to which, in my opinion, it ought in time of peace to be applied.

One million of the three per cent. annuities is to be paid off, by a voluntary subscription of the annuities, at the rate of 88 per cent. The sum requisite for the paying it is 880,000*l.* Your Exchequer bills amounted last year to 1,000,000*l.* This year they are augmented to 1,250,000*l.* Here then is a new debt contracted of 250,000*l.* A lottery is proposed of sixty thousand tickets, at 12*l.* 10*s.* each ticket. The value of the ticket is 10*l.* only. The public pays then 2*l.* 10*s.* for the liberty of gaming for 10*l.* This must be considered as a new tax imposed upon us, and will amount to 150,000*l.* which, with 250,000*l.* additional Exchequer bills, making in all 400,000*l.* must, in fairness, be deducted from the 880,000*l.* to be employed in the redemption of the million of three per cents. The remainder then is 480,000*l.* But before the noble lord can be warranted in taking credit for even this paltry sum, as employed in discharging our debt, it remains to see, whether that debt has not been increasing at one end, as fast as we are paying it off at the other. What was your navy debt this time twelve months? What is it now? The noble lord has not told you how this important point stands: yet it was his duty to do so. You have voted 200,000*l.* as part of the supply of the year, towards

reducing that debt. I think I have somewhere heard this will go but a short way, and that there will remain still about 1,600,000*l.* to be discharged. If this is true, your navy debt is now, after discharging 200,000*l.* of it, about 300,000*l.* higher than it was a year ago. The noble lord, nor no man who hears me, will deny that this increase of 300,000*l.* must also be deducted from the former sum of 480,000*l.* Here then remains 180,000*l.* which has been applied of all your immense annual revenue towards the lessening of our national debt. A revenue of upwards of 10,000,000*l.* and a sinking fund of 2,700,000*l.* purposely and originally destined for the discharge of our debt, afford not a single farthing more than 180,000*l.* for the service of the highest importance to the kingdom; and that too, Sir, in the twelfth year after the peace of Versailles, and in a time of profound tranquillity. A day of triumph to the minister! This is, Sir, and in the mind of every thinking man must be reckoned, a day of humiliation to the noble lord, and to every man concerned in the finances of this kingdom. Who can, Sir, without sorrow and despair, reflect on the present state of our revenue, consumed in useless peace establishments, which, far from adding to our strength, only encumber and enfeeble the nation, by absorbing those resources, which in wisdom and sound policy ought to be reserved for war.

Let me now, Sir, mention shortly the other material part of this day's business, which has been totally omitted by the noble lord. I mean the increase or decrease of our revenue. This is an important consideration; for if, while our expences increase, our revenue should be found to decrease, the candle is then lighted at both ends, and our situation is, indeed, truly deplorable. This omission may have been unintentional. Yet I am led by some circumstances to suppose, that this part of the picture has not been without design thrown into the shade: when brought forward, I fear it will not be pleasing. What makes me think so is this. The noble lord has stated the sinking fund for this year at 2,700,000*l.* and he has also told us, that this is in part composed of about 370 or 350,000*l.* of savings of interest in consequence of debt formerly discharged. Yet, Sir, I remember the sinking fund having been taken five or six years back, if not longer, at 2,800,000*l.* when, less of our debt being paid off, the savings on the

article of interest must have been much smaller than they are now related by the noble lord. From hence, Sir, I conclude our revenue, the income of the nation, is on the decline; but as I can only speak from inference, and not with certainty, I shall wait with pleasure to hear from the noble lord himself how this matter stands, and at present leave the subject here.

But, Sir, before I sit down, I must beg the indulgence of the committee, to throw out an idea I have long had, how this House ought to act concerning our debts and establishments. The idea is crude, ill-digested, and, perhaps, visionary; yet as I know my intention to be fair, I am bound to hazard it. In time of war, Sir, the first question of the committee of supply ought to be, how many seamen, how many soldiers, and how much money is requisite to defend ourselves, and to annoy and attack the enemy? To these objects every other should give way. The spirit of the nation will vote, and I trust the faculty of the state will furnish amply for such services. The great law of necessity, self-defence, requires that war should not be starved: but the war once at an end, and peace restored, the House should, in its wisdom and good sense, invert the order of its proceeding. Force is no longer your first object. The care of your finances stands far before it. You should enquire what incumbrances have been contracted, and examine your means of discharging them within a reasonable time, so as to restore you speedily to your former situation, in point of debts and taxes. Your first vote in time of peace should be of the sum requisite for that purpose, leaving the surplus or residue to be applied by the ministry. Vote largely from the sinking fund for the payment of your debts, and let the ministry cut and carve the remainder as they please; for I shall ever be of opinion, that great fleets and armies, in time of peace, serve only to increase the power of the crown, and weaken that of the kingdom.

Governor *Johnstone* said, that no man had received greater pleasure from the noble lord's speech than himself; but notwithstanding all the applause it had received, he thought there were some parts in it which lay extremely open, particularly the treatment of the East India Company, the $4\frac{1}{2}$ per cent. raised by royal authority on the ceded islands, and the manner of paying off the one million now proposed. He said his lordship had de-

[VOL. XVII.]

scribed, in the most humorous manner, the farce of power assuming the garb of justice in the operations of the French finances. That no man could exceed his lordship in that description; his solemn voice, his serious manner, his peculiar action, all contributed to give the proper vein of ridicule to such proceedings. But while the noble lord described the conduct of the French financier, it brought to the governor's mind the exact counterpart of the English minister. He observed, his lordship had confessed that he was now convinced the extravagant ideas conceived by government, of the riches to be drawn from the East Indies, was in fact a golden dream. His lordship likewise confessed that he was convinced, by an account drawn up by one of the present directors, that government had actually received all or the greatest part of what had been remitted home from these acquisitions, and that the sums which had been divided among the proprietors, was really an accumulation of debt entailed upon them. But, says the noble lord, I am nevertheless glad the public has got the money. It would have been absorbed in plunder abroad, or jobs at home. The governor submitted to the House whether that was not the very language put into the mouth of the French financier, when he cut off the pensions and salaries to placemen, which had in fact been purchased by money, with this difference, that the Frenchman had the necessity of the state to plead, and condoled with the sufferer, while his lordship held forth the high situation of public credit, and exulted in proceedings that must ever deprive us of any future claims to that sacred distinction among nations. The governor said he was far from saying the perfidy of Britain was yet to be compared to that of France; that the forms of the constitution did not permit it; that we were not as yet so far advanced in the stage of political society; they had passed the zenith of prosperity in Lewis the 14th's time, we on the close of the last war: but this country was making rapid progress in the same lines of frivolity, vanity, dissipation, and injustice. The governor said that no man had a greater right to exclaim against rapine in the East Indies, or jobbing at home, than himself, as he had uniformly opposed both; but it was a poor comfort, and a sad excuse to the innocent stockholder, that because he had suffered those injuries from others, the injustice of government

[4 R]

should be added to render the measure of his miseries complete, and even founding on those three calamities the destruction of all his rights and privileges which had been purchased from the state under the faith of parliament; that the credit of a kingdom was like the honour of a man, or the chastity of a woman, when once they began to yield, they soon proceeded to the most abandoned extremities; that it was for this reason he rose to warn the guardians of the nation of the doubtful steps they had pursued before they strayed too far, and not with any view of diminishing the respect due to the noble lord, but, on the contrary, to add to it; by warning him to avoid such measures as must tarnish his reputation, notwithstanding the greatest abilities. That it ill became the noble lord to talk of plunderers abroad, and jobbers at home, without he could shew, after all the positive facts established by parliamentary enquiry, that any man notorious in those practices, had been discountenanced or abashed by his conduct towards him; but if it appeared on the contrary, such men were particularly marked among the number of their friends, and distinguished by his recommendation, the general language of censure was hollow and insincere. That he did not say (with colonel Barré) that the noble lord "had missed a million, and filched a patronage," but he averred the noble lord had unjustly extracted 1,400,000*l.*, and boldly disdainful of public faith, had seized a patronage, and appeared with his troops to support it. That, after ridiculing the false pretences of a French financier, it was below the ingenuous character of an English minister, to avow to the House of Commons, after the notorious conduct which had been held, that he never wished to acquire any patronage in the East India Company. Did the noble lord pretend to say that the conduct of his secretary had been without his orders? Did the secretary, on his left hand, presume to deny any of the letters, which had been given to the public as copies of the originals, in his name? That if any subterfuge should arise on this point, he was bold to say, he had one of those original letters (assuming all management) in his pocket.

The other matter in which the governor observed the public faith of the nation had been violated, if not the constitution of the country, was the levying of $4\frac{1}{2}$ per cent. on the ceded islands by edict of the

king. The governor said, he disdained those doctrines, that after a proclamation had been made to the subject, under the great seal of Britain, with his Majesty's sacred promise affixed, and which must have passed through all the offices of the state for their approbation, that such notification to the world should be held of non-effect, even where the king, by the uniform acquiescence of the legislature, had been permitted as the executive magistrate on such establishments. To say, after these facts (which none can deny), that men, purchasing estates under the faith of such a proclamation, cannot plead it in bar; or that after such sacred assurances, almost every article shall be violated, and an arbitrary tax of $4\frac{1}{2}$ per cent. on the gross property, shall be raised by the King's edict (an authority totally inadequate to such purposes, though the same which had given proclamation it should never be exacted), is a breach of national faith in so palpable a degree, that nothing less than the total indifference and lethargy into which we are fallen, could prevent a parliamentary enquiry. That with regard to the constitutional point, involved under claims of conquest, whether his Majesty had originally such a power before he had in substance passed his word that he never would exercise it, the governor declined speaking with confidence, because he naturally supposed the ablest law officers had given an opinion in approbation of such a measure. Nevertheless, the governor fairly confessed, that if such a prerogative of raising money, and applying conquests to private pensions, existed in the crown, it disturbed every idea he had of the British constitution.

The governor further said, that lord North had been very artful in the management of the question of the day. That he agreed with the noble lord, he was indeed the defendant, considering what had been said on former debates, but like a second Scipio, he had removed the war from Italy to Africa, and thrown the gentlemen on that side of the House into so much recollection to defend themselves for their conduct on former occasions, that they had totally omitted saying a word to the question, which he thought very reprehensible. The noble lord, he said, admitted that 85 was the natural price of the three per cents. in the present market; that they had only rose to 88 within these eight days, since the plan of

the budget came out. For this reason his lordship proposed to exclude all who had purchased from that time. By admitting the fact of the rise, the noble lord proved that the benefit on lottery tickets was a sufficient inducement for stockholders to accept payment, without any additional value on the market price of the stock. That by the present mode, 3*l.* premium was given on the stock, and the six lottery tickets at 12*l.* 10*s.* could not be reckoned at less advantage than 5*l.* So that in fact, the state paid 8*l.* premium on every 85*l.* which was extremely improvident. For as the money lenders in time of war exacted great premiums from the state, the public had an equal right to pay off at the lowest rates, at which the consent of the creditor could be obtained. That the proposition for excluding all who had purchased since the terms were known, was unjust, and the pretence held out evidently fallacious; for it cannot be supposed, if the persons about the noble lord were inclined to gambling in the Alley, that they would have waited buying in till the stock rose. That the methods taken to avoid suspicion, did in fact create suspicion. That the pretence of making it an open subscription, leaving the management to the clerks of the Bank, had been fully refuted by the event of last year, when, though a kind of storm prevailed, in which some general officers lost their wigs and canes, yet, by a strange fatality, when the favourite names of fortune appeared, if the bank directors and the noble lord had agreed in selecting them, they could not have been more exact in fixing upon their friends. The governor said, the fair character of the persons round the noble lord left no room for suspicion with those who knew them, but these strange fortuitous circumstances misled all others who did not; and just like the pension bestowed on his hon. friend (Mr. Cornwall) concerning which he had given so complete a justification, yet his change of sentiments, or rather conversion, having happened precisely at the time of receiving it, and his conduct having kept pace with the progress, men who did not know him so well as the governor did, were apt to impute it to motives against which he had constantly been declaiming. That in case the noble lord really meant to avoid all suspicion in the present project, there was an obvious method, that of going back six weeks, and after the subscription had been open for eight days, for

the benefit of gentlemen living in the country, then drawing the names of those entitled to public favour from a balloting box.

The governor shewed likewise the fallacy in supposing that one million of the national debt was diminished; for, in fact, reckoning the present lottery, and the increased unfunded debt of the navy, it will be found, that in fact we had not paid off 300,000*l.*

The Resolutions moved by lord North were then agreed to.

Debate in the Lords on the Bill for the impartial Administration of Justice in Massachusetts's Bay.] May 18. The order of the day being read for the third reading of the Bill for the impartial administration of justice, in the cases of persons questioned for any acts done by them in the execution of the law, or for the suppression of riots and tumults, in the province of Massachusetts's Bay, in New England; a debate ensued. It was opened by the earl of Buckinghamshire, who confessed this to be the most exceptionable of the American measures, but thought it was excused by necessity. He was answered by lord Shelburne, who spoke with great ability, spirit, and knowledge of the subject. The lords Denbigh, Sandwich, and the Lord Chancellor, were the chief supporters of the Bill. The duke of Manchester spoke with that grace of manner and elegance of language which so peculiarly distinguish him.

The Marquis of Rockingham spoke late in the debate. His speech lasted near three quarters of an hour; and never was more attention given to a speaker on any occasion. He spoke with all the weight and authority of an able statesman, and all the feeling of a patriot, deeply concerned for the interest of his country. He entered fully into the civil policy which had originally given rise to the disturbances in America, and had in consequence produced bills and regulations so ill calculated to allay them. He took post upon the measure of his own administration, the repeal of the Stamp Act, on which he argued with great force. He insisted that that repeal was no more than a return to the ancient policy of Great Britain, from which the tax had been a deviation. He then stated the new taxes laid on after his removal from office, as originating from no plan of policy whatsoever, but merely as the result of pique and passion; that

they were in effect confessed to be so, because they were afterwards repealed for the greater part, as being laid by the avowal of administration itself, in contradiction to all the principles of commerce.—That the Tea-duty, equally uncommercial and unproductive, was left as a pepper-corn, merely for the sake of contest with America, as the ministry had likewise avowed. He censured very severely the doctrine of taxing for the sole purpose of exercising an invidious right, and insisted that taxes ought to be for the real purpose of supporting government, and not purely to irritate and stir up dangerous questions. That the Stamp Act was a great object, and might have produced in time considerable revenues; but to risk the whole trade of England, and the affections of the Americans, in a quarrel with the colonies for pepper-corns, he thought a very unwise proceeding.—After this he entered into the particulars of the Bill, and, among other things, in answer to the difficulties asserted to be laid on officers without such protection as was given by this Bill, he said that he thought the condition of men of honour and sensibility to be far worse under this Bill; for that no acquittal could be honourable, where the prosecutor had not the usual means of securing a fair trial. He concluded with a very emphatical recommendation of temper, as necessary in all things, but particularly in measures of this nature, and in subjects of so much delicacy: his own remarkable calmness and steadiness of mind, gave additional force to this part of his speech.

The Duke of *Richmond* spoke last in the debate, and with his usual spirit, pointed his answer chiefly to what fell from the Chancellor and lord Sandwich: he concluded with recommending to the perusal of the House, a pamphlet, called “*Considerations on the Measures carrying on against America*,” and the bishop of *St. Asaph*’s Sermon, preached 1773, before the Society for propagating the Gospel, as containing the soundest doctrines and the best policy.

The Bill was then read a third time and passed, by a majority of 43 to 12.

Protest on passing the Bill for the impartial Administration of Justice in Massachusetts’s Bay.] The following Protest was entered:

“Dissentient”

1st, “Because no evidence whatsoever

has been laid before the House tending to prove, that persons acting in support of public authority, and indicted for murder, cannot receive a fair trial within the province which is the object of this Bill. On the contrary, it has happened that an officer of the army, charged with murder, has there received a fair and equitable trial, and been acquitted. This fact has happened even since the commencement of the present unhappy dissensions.

2dly, “Because, after the proscription of the port of Boston, the disfranchisement of the colony of *Massachusetts’s Bay*, and the variety of provisions which have been made in this session for new modelling the whole polity and judicature of that province, this Bill is an humiliating confession of the weakness and inefficacy of all the proceedings of parliament. By supposing that it may be impracticable by any means that the public wisdom could devise, to obtain a fair trial there, for any who act under government, the House is made virtually to acknowledge the British government to be universally odious to the whole province. By supposing the case that such trial may be equally impracticable in every other province of America, parliament does in effect admit, that its authority is, or probably may, become hateful to all the colonies. This we apprehend is to publish to the world, in terms the most emphatical, the little confidence the supreme legislature reposes in the affection of so large and so important a part of the British empire. If parliament believed that any considerable number of the people in the colonies were willing to act in support of British government, it is evident that we might safely trust the persons so acting to their fellow colonists, for a fair trial for acts done in consequence of such support. The Bill therefore amounts to a declaration, that the House knows no means of retaining the colonies in due obedience, but by an army rendered independent of the ordinary course of law, in the place where they are employed.

3dly, “Because we think, that a military force, sufficient for governing upon this plan, cannot be maintained without the inevitable ruin of the nation.

“Lastly, Because this Bill seems to be one of the many experiments towards an introduction of essential innovations into the government of this empire. The virtual indemnity provided by this Bill, for those who shall be indicted for murders committed under colour of office, can answer

no other purpose. We consider that to be an indemnity which renders trial, and consequently punishment, impracticable; and trial is impracticable, when the very governor, under whose authority acts of violence may be committed, is empowered to send the instruments of that violence to three thousand miles distance from the scene of their offence, the reach of their prosecutor, and the local evidence, which may tend to their conviction. The authority given by this Bill, to compel the transportation from America to great Britain, of any number of witnesses at the pleasure of the parties prosecuting and prosecuted, without any regard to their age, sex, health, circumstances, business, or duties, seems to us so extravagant in its principle, and so impracticable in its execution, as to confirm us further in our opinion of the spirit which animates the whole system of the present American regulations.—

(Signed) Richmond, Rockingham, Leinster, Fitzwilliam, Portland, Manchester, Ponsonby, Craven.”

Debate in the Lords on the Bill for Quartering Troops in North America.]

May 27. The order of the day being read, for the third reading of the Bill for the better providing suitable Quarters for Officers and Soldiers in his Majesty's service in North America,

Lord Chatham rose and said :

My lords, the unfavourable state of health under which I have long laboured could not prevent me from laying before your lordships my thoughts on the Bill now upon the table, and on the state of American affairs in general.

If we take a transient view of those motives which induced the ancestors of our fellow-subjects in America to leave their native country, to encounter the innumerable difficulties of the unexplored regions of the western world, our astonishment at the present conduct of their descendants will naturally subside. There was no corner of the world into which men of their free and enterprising spirit would not fly with alacrity, rather than submit to the slavish and tyrannical principles, which prevailed at that period in their native country. And shall we wonder, my lords, if the descendants of such illustrious characters spurn, with contempt, the hand of unconstitutional power, that would snatch from them such dear-bought privileges as they now contend for? Had

the British colonies been planted by any other kingdom than our own, the inhabitants would have carried with them the chains of slavery, and spirit of despotism; but as they are, they ought to be remembered as great instances to instruct the world, what great exertions mankind will naturally make, when they are left to the free exercise of their own powers. And, my lords, notwithstanding my intention to give my hearty negative to the question now before you, I cannot help condemning, in the severest manner, the late turbulent and unwarrantable conduct of the Americans in some instances, particularly in the late riots of Boston. But, my lords, the mode which has been pursued to bring them back to a sense of their duty to their parent state has been so diametrically opposite to the fundamental principles of sound policy, that individuals, possessed of common understanding, must be astonished at such proceedings. By blocking up the harbour of Boston, you have involved the innocent trader in the same punishment with the guilty profligates who destroyed your merchandize; and instead of making a well-concerted effort to secure the real offenders, you clap a naval and military extinguisher over their harbour, and punish the crime of a few lawless depredators and their abettors upon the whole body of the inhabitants.

My lords, this country is little obliged to the framers and promoters of this tea-tax. The Americans had almost forgot, in their excess of gratitude for the repeal of the Stamp Act, any interest but that of the mother country; there seemed an emulation among the different provinces, who should be most dutiful and forward in their expressions of loyalty to their real benefactor; as you will readily perceive by the following letter from governor Bernard to a noble lord then in office: “The house of representatives,” says he, “from the time of opening the session to this day, has shewn a disposition to avoid all dispute with me; every thing having passed with as much good humour as I could desire. They have acted, in all things, with temper and moderation; they have avoided some subjects of dispute, and have laid a foundation for removing some causes of former altercation.”

This, my lords, was the temper of the Americans; and would have continued so, had it not been interrupted by your fruitless endeavours to tax them without their consent: but the moment they perceived

your intention was renewed to tax them, under a pretence of serving the East India Company, their resentment got the ascendant of their moderation, and hurried them into actions contrary to law, which, in their cooler hours, they would have thought on with horror: for I sincerely believe, the destroying of the tea was the effect of despair.

But, my lords, from the complexion of the whole of the proceedings, I think that administration has purposely irritated them into those late violent acts, for which they now so severely smart; purposely to be revenged on them for the victory they gained by the repeal of the Stamp Act; a measure to which they seemingly acquiesced, but at the bottom they were its real enemies. For what other motive could induce them to dress taxation, that father of American sedition, in the robes of an East India director, but to break in upon that mutual peace and harmony, which then so happily subsisted between them and the mother country.

My lords, I am an old man, and would advise the noble lords in office to adopt a more gentle mode of governing America; for the day is not far distant, when America may vie with these kingdoms, not only in arms, but in arts also. It is an established fact, that the principal towns in America are learned and polite, and understand the constitution of the empire as well as the noble lords who are now in office; and consequently, they will have a watchful eye over their liberties, to prevent the least encroachment on their hereditary rights.

This observation is so recently exemplified in an excellent pamphlet, which comes from the pen of an American gentleman, that I shall take the liberty of reading to your lordships his thoughts on the competency of the British parliament to tax America, which, in my opinion, puts this interesting matter in the clearest view: "The high court of parliament," says he, "is the supreme legislative power over the whole empire; in all free states the constitution is fixed; and as the supreme legislature derives its power and authority from the constitution, it cannot over-leap the bounds of it, without destroying its own foundation. The constitution ascertains and limits both sovereignty and allegiance: and therefore his Majesty's American subjects, who acknowledge themselves bound by the ties of allegiance, have an equitable claim to the

full enjoyment of the fundamental rules of the English constitution; and that it is an essential unalterable right in nature, ingrafted into the British constitution as a fundamental law, and ever held sacred and irrevocable by the subjects within this realm—that what a man has honestly acquired, is absolutely his own; which he may freely give, but which cannot be taken from him without his consent."

This, my lords, though no new doctrine, has always been my received and unalterable opinion, and I will carry it to my grave, that this country had no right under heaven to tax America. It is contrary to all the principles of justice and civil policy, which neither the exigencies of the state, nor even an acquiescence in the taxes, could justify upon any occasion whatever. Such proceedings will never meet their wished-for success; and, instead of adding to their miseries, as the Bill now before you most undoubtedly does, adopt some lenient measures, which may lure them to their duty; proceed like a kind and affectionate parent over a child whom he tenderly loves; and, instead of those harsh and severe proceedings, pass an amnesty on all their youthful errors; clasp them once more in your fond and affectionate arms; and I will venture to affirm you will find them children worthy of their sire. But should their turbulence exist after your proffered terms of forgiveness, which I hope and expect this House will immediately adopt, I will be among the foremost of your lordships to move for such measures as will effectually prevent a future relapse, and make them feel what it is to provoke a fond and forgiving parent! a parent, my lords, whose welfare has ever been my greatest and most pleasing consolation. This declaration may seem unnecessary; but I will venture to declare, the period is not far distant, when she will want the assistance of her most distant friends: but should the all-disposing hand of Providence prevent me from affording her my poor assistance, my prayers shall be ever for her welfare—length of days be in her right hand, and in her left hand riches and honour; may her ways be ways of pleasantness, and all her paths be peace!

When the noble lord had concluded, lord Suffolk spoke for a short time, and was answered by lord Temple, who closed the debate. The question was put, that the Bill do pass, and the House divided, Contents 57, Non Contents 16.

Proceedings in the Commons on the Bill for the Government of Quebec.] May 26.

The order of the day being read for the second reading of the Bill from the Lords, intituled, 'An Act for making more effectual provision for the government of the province of Quebec, in North America;' a motion was made, that the said Bill be now read a second time.

Mr. T. Townshend. As it may seem a little extraordinary, that I, who for so many sessions have been calling on the ministers to give a government to Canada, and reproaching them with its not being done sooner, should now, that a Bill is brought in for doing it, be the first to oppose it: as this, Sir, may seem more inconsistent than it is, I think it necessary to explain the reasons for this apparent contradiction. When I called for a government for Canada, little did I think I was calling for a despotism for Canada; little did I think that I was calling for an immense country, not belonging to Canada, being included under the despotism; little did I think that I was calling for a numerous people being deprived for ever of all those blessings of freedom which were held out to them, and promised them. Sir, I shall not enter into particulars, without apologizing for doing it in this stage of the Bill; but really, I think it so replete with mischiefs, that I cannot vote for reading it a second time.

The Bill establishes a despotic government in that country, to which the royal proclamation of 1763 promised the protection of the laws of England. I call it despotic; for so in fact it is, as the council of 17 or 23 is, with the governor, the legislative authority of the province. This council the governor can appoint, suspend, and turn out at his pleasure: there is no quorum appointed; for what purpose omitted, no one can tell. Now, Sir, this is rendering the governor securely absolute: you had much better have made him literally so, and then he would not have had a council to screen him: he is responsible in England, if he acts tyrannically; but by means of this convenient legislative council, he can do any thing with impunity.

Well, Sir, not content with constituting this legislative council, the mere creature of a governor, who must necessarily be the creature of a minister, you go farther, and throw under this absolute power a country never considered as Canada, and peopled by British subjects alone; for you

extend the government to the Mississippi on the West, to the Ohio on the South, to Hudson's Bay on the North, and on the East to God knows where; for no mortal can tell from the Bill where the Eastern boundaries are, so exceedingly indefinite and unintelligible is the Bill. I should be glad to know for what purpose the colony is thus amazingly extended.

In the next place, Sir, the internal arrangement of the colony consists in leaving the inhabitants the civil law of France. You take away the trial by jury, in civil matters, and you cut off the Habeas Corpus from them. Thus, in giving a government to the Canadians, you deprive many British-born subjects, residing in countries where they never dreamed of such innovations, of the dearest birth-rights of Britons. And as by this Act all commissions to the legal magistrates are revoked, I suppose, the province is to change her present excellent chief justice for a new one to be appointed. It is for these reasons, Sir, and for others, which I am clear will suggest themselves to all the members of the House, that I shall give my hearty negative to the Bill.

Lord North. I wish to give the right hon. member all the satisfaction in my power upon this measure. Respecting the government given to the province, the right hon. gentleman objects, I suppose, to an assembly not being appointed. The reason why a council alone, appointed by the governor, was preferred, was the small number of English settlers who must chuse that assembly, in order for their acts to govern and bind all the French and Roman Catholic subjects. This, Sir, was thought to be very unequal, and even cruel, to have an assembly, chosen by so small a body, govern so large a one; and if the business is considered maturely, it will, I believe, be found the most conducive to the happiness of the people. Next, Sir, as to the extent given to this colony; it takes in no countries regularly planted by British settlers, but merely distant military posts, at present without any government but that of the respective commanding officers. Now, the question here is merely this, Will you annex them under the present government? Will you leave them without any government? or will you form separate governments and colonies of them?

It was thought by the Lords, that the plan in which there were the fewest inconveniences, was to throw the scattered

posts to the government of Quebec. As to the civil law of France being left to the Canadians, it was thought more humane to them than to change it for a new law, of which they must be entirely ignorant, as the trial by jury, in criminal matters, is given them. The present officers in the province were not meant to be changed, most certainly.

Mr. *Dunning*. I cannot omit this opportunity of giving my hearty protest against a Bill, which, in my conscience, I think destructive of every principle of freedom, and abounding with mischief of a most serious tendency. Sir, I shall beg leave to follow the noble lord in the reply he has given to the hon. member who stated his objections to the Bill; a reply which by no means answers those objections; on the contrary, they appear to me to remain in full force. And in endeavouring to do this, I shall divide what I have to observe into two considerations: first, the consequences which will attend this Bill if it passes, in case Canada should ever be restored to France, an idea which by no means hurts me; for if it should pass, I must own I would as soon see the one sovereign reigning there as the other; I mean, it will be of little consequence to the people, and they will be as free in one case as in the other.

My second consideration will be, if the province should remain to England. Consider what it was for which you engaged in the last war, encroachments of the French upon our colonies; they passed down their rivers, they seized upon large tracts, and built forts about this very country to the southward of Canada, claiming it as a part of Canada. You repelled force by force; they offered to you to withdraw from the south of the Ohio, and retire to the north, making that river the boundary of the two colonies. No, you replied; the river of St. Lawrence is the boundary of Canada; we will admit of no other; the tracts which you claim are parts of our colonies of Virginia, Pennsylvania, &c. and we cannot grant away the certain and undoubted rights of our subjects in such a manner. This refusal brought on the war; and in case a future war should happen, in which your arms do not succeed in the manner they did in the last war, you may then find yourself treating upon the re-cession of Canada to France; will not the French demand the cession of Canada as you limit it by act of parliament? Will they not say, you have,

by a solemn act of your whole legislature, proved to all the world, that in the dispute of limits at the opening of the war we were right, and you wrong; you have chalked out the very limits to it, which we insisted on; and you have confirmed them by an act of parliament; how therefore can you, with any propriety, talk of restoring any thing less than what we always claimed as Canada, and what you have since solemnly adjudged to be Canada? And this, I think, in a negotiation, may be attended with most serious consequences.

Next, Sir, supposing you preserve the possession of it, let us consider the consequences that flow from this Act: you throw at once the whole people of that colony into an arbitrary power, for such is that of your governor, as it has been well stated; and you not only do this to the Canadian subjects, but, by giving to the new province this monstrous southern extent, you run it down upon the back of the planted part of many of our colonies, and take away, by one stroke, the charter properties confirmed by act of parliament of those colonies, you violently seize their rights, and the people who pass the mountains to settle on the eastern side of them, will immediately find, that by going to live in what they ever esteemed their direct property, they find themselves gone from the freedom of the British constitution, and meet with all the power of despotism. This is not only a cruel, violent, and odious measure, but it tears up justice, and all its principles, by the root. To think that the inhabitants of those countries, settling in them under the protection of this free government, and assured by law and parliament that they settle under the liberty of their old charter constitutions, finding themselves, by crossing an imaginary line, deprived of the dearest rights and privileges of English subjects, is a most tyrannical and inhuman conduct. It is sporting with property in a manner that cannot be defended, and for attaining no end whatever that deserves attention.

The noble lord has said, that the great excellencies of this constitution are the criminal law and the political law; both of which are given to Canada; but will the noble lord say, that these include every thing an Englishman ought to value himself upon? Does he think the trial by jury in civil points has nothing in it worth contending for? and by this Act that trial is taken away. Does he think the Habeas Corpus nothing? Where is the English-

man that would not fall into an agony, if he understood that he was certainly to be deprived of those two bulwarks of his personal security, and his property?

Mr. Attorney General *Thurlow*. Respecting the ill consequences that may flow from enlarging the province of Quebec, in case of being forced by a future war to restore it, I cannot see that in the same light as my learned friend; because I think that the limits and importance of cessions are never dependant upon such arrangements as these, but upon the length of the sword: it is success in war that gives success in peace, and by no means the imaginary lines drawn by a state in its colonies; nor have the limits now drawn any thing to do with old Canada; they take in countries never claimed by France; it is a new scheme, and by no means the restoration of those old limits the French once contested for.

With regard to the supposed cruelty of not giving the Canadians the same laws in every instance as we enjoy in England; I am so far from being of the same opinion, that I think you could not act more cruelly to that people, than to change at once their law of property, and give them our trial by jury, which is necessarily giving our law of actions. I am clear it would so completely confound them, as to be more tyrannical than can be easily imagined. They would not understand the rule of their own actions; they would not know on what principles they stood possessed of their own property. In a word, you would give them the greatest curse, under the notions of a blessing. There is not a circumstance dearer to a man, nor one which he ought to be more jealous of, than to be tried in all points by laws to which he has been used, and whose principles are known to him.

Colonel *Barré*. I cannot agree that there is any thing in the laws of England, in the trial by jury, and the Habeas Corpus, that the Canadians would not very easily understand; and it is preposterous to suppose, that the superiority of good and just law, and freedom, should not be felt by people, because they had been used to arbitrary power. But why is the religion of France, as well as the law of France, to become the religion of all those people not Canadians, that pass out of one colony into another? By this Act you establish the Roman Catholic religion where it never was established before, and you only permit the practice of your own; you do not

[VOL. XVII.]

so much as let them go hand in hand. For what purpose is the Illinois and the Ohio to be Roman Catholics? Why is that to be made the established religion of that vast country, in which are very many English settlers?

Mr. Serjeant *Glynn* controverted most of the positions laid down by the Attorney General, particularly relative to the true construction of the Definitive Treaty, his Majesty's proclamation, and the propriety of allowing the conquered to retain their own laws. He observed, that whatever contrary opinion might be maintained, it was his, that all conquests, as soon as made, vested in the King, Lords, and Commons; but that, until the two latter interfered, the King, as actual representative of the whole, was justified in making such regulations as he might think proper, so that they were not actually repugnant to the laws or constitution. The latter not being the case of the proclamation, he thought the nation in every respect bound to fulfil every thing promised by that solemn engagement. He instanced likewise the cases of Wales and Ireland, as conquered countries, where our laws had been established; and enlarged, in a very able manner, on the many important and salutary effects that had arisen from our extending them to those countries.

Mr. *Solicitor General* denied the fact as stated by the learned serjeant; insisted, that it was not till the reign of Henry 8, that they were introduced into Wales, nor until that of James 1, that they obtained in Ireland. He said, that among all the great or powerful nations we had an account of, the Romans and English were the only two who forced their laws on the conquered; that it was a most cruel and barbarous policy, and that the English laws, how much soever we might prize them, would be the greatest curse imaginable to the Canadians.

Mr. *Charles Fox* objected to the Bill, as being contrary to the established usage of parliament. He said a provision was made in it for securing the tythes to the Romish clergy; that this was raising money on the subject, and that consequently its originating in the other House, was not only irregular and informal, but directly repugnant to the custom and law of parliament.

Mr. *Dempster* said, the impropriety of the Bill struck him, for it certainly was a Bill either to take away or impose a tax, and therefore should have originated in

[4 S]

the Commons, but he should be glad of the Speaker's opinion.

Mr. *Sawbridge* rose, saying, he found the Speaker was unwilling to rise, but that he should not ask his opinion as a favour, but as a part of his duty, and, if the honourable gentleman (Mr. Dempster) was willing, he would make it a question, whether the Speaker should give his opinion, or not?

The *Speaker* rose, seemingly very angry, and said, he was not used to be called on in that manner, and that he did not think it his business to give any opinion on the affair.

A strong debate ensued, in which Mr. C. Fox, Mr. Dempster, Mr. T. Townshend, Mr. Dunning, serjeant Glynn, and sir G. Savile, strongly contended that the Bill was, to all intents and purposes, either a Bill to impose a tax, or to repeal a part of a tax, and therefore it was against a standing order, concerning the privileges of all money Bills originating in that House. Lord North, and the Attorney and Solicitor Generals, defended the Bill. The question being put, that the Bill be read a second time, the House divided. The Noes went forth.

Tellers.

YEAS	{ Sir Arch. Edmonstone	} 105
	{ Mr. Gascoyne - - -	
NOES	{ Mr. Tho. Townshend, jun.	} 29
	{ Mr. Charles James Fox	

So it was resolved in the affirmative.

May 31. The House went into a Committee on the Bill.

Mr. Baker brought up a Petition from Messrs. Penn, proprietors of Pennsylvania, setting forth, That the new limits given to the province of Quebec, would essentially injure their properties, as a considerable part of the province of Pennsylvania was situated on the north-west side of the river Ohio, which is all taken into that of Quebec. Upon the petition being read, Lord North rose and said, that he should not think of opposing it, as it was never the intention of the Bill to affect the just rights of any proprietors, or of any colonies.

Mr. *Mackworth*. The Petition which I have in my hand, is from the merchants of London trading to Quebec, who finding that a Bill is about to pass this House, which they apprehend will essentially injure them in their commercial transactions with that colony, rely on the justice and the candour of this House to take their

case into consideration. As to the merit, Sir, of the Bill, which is now coming before us, I must make this general observation, that a Bill which has confessedly taken nine years for administration to consider of effectual means to remedy the evils complained of; such a Bill, Sir, surely will demand more time than a few days for the members of this House, to judge in what manner to give their vote. Information is what we want. I know not what opinion I am to form upon the necessity which can call for such a Bill, and for want of that information which ought now to be before the House. I cannot but condemn most sincerely several arrangements in the Bill, which seem destructive of that liberty which ought to be the ground-work of every constitution formed by this House; but I cannot judge what are the causes which call for such measures, while I remain so uninformed as at present. There were reports from the Board of Trade to the King in council, upon the state of the province; there were representations from men in the highest offices in the provinces, upon the proposed constitution to be given to it; there were opinions in writing from the Attorney and Solicitor General, upon the plans proposed: these papers would, if laid before us, give that information which we want, and without which it will be impossible for us to give any other than blind votes, which will, from every thing that we can at present see in the Bill, establish a most fatal system of government in that country.

Mr. *T. Townshend*. As this is not the proper time for going into the principle of the Bill, I shall confine myself to the absurdity, to say no more of it, of bringing in a Bill of such magnitude and importance so late in the session, without previously laying upon the table the necessary information; at present we have none; and if the noble lord means that we should know the subject upon which we are to debate, he certainly will not object to giving us that information, without which we cannot proceed with propriety. Let us, in the name of common sense, see what are the complaints of the Canadians against their present government, what are their distresses, what their desires; and let us see the opinions of the great law officers which have been given upon this point.

Lord *North*. I shall oppose the calling for those papers, they will take some time in copying; there have been several reports from the Board of Trade, which are long,

and if we wait for addressing the crown to lay them before us, the season will be delayed too late, and for no purpose, as we may have the same information at our bar. The governor of the province I see at the bottom of the House, who may be ordered to attend when you go into the committee; Mr. Hey, who is chief justice, is near Canterbury, and may be ordered up; and Mr. Maseres, who was Attorney General of that province, is also in London; as to the Attorney and Solicitor General, we have them amongst us; therefore I do not see but we may have just as good information in this manner, and much more expeditiously, than by addressing for the papers.

Colonel Barré. I think there will be very little difficulty in shewing, that the proposition now made by the noble lord will be very far from answering the purpose of those who wish for full information on this subject. The papers we now call for would give us that information; those papers are drawn up coolly, attentively, and upon long and mature consideration; and they have been drawn up at leisure by men of great character and abilities. Now, Sir, the noble lord will not, he cannot assert with any appearance of justice, that calling those men to your bar, to be questioned in the desultory manner common upon those occasions, and in the midst of the contention between those who patronize the Bill, and others who condemn it—will he tell us that this is such information as we should receive from the papers referred to? It is impossible. As to the two great law officers who are present, I admit that their standing in their places, and reciting the opinions they gave would be satisfactory; but then they ought simply to inform us what those opinions were, and not to enter into the debate on the merit of the Bill at the same time, or by a side wind to warp information concerning a past fact into an opinion of a debate in question. That satisfaction should be made the House on these points nobody can doubt; for to tell us that we cannot have information for want of time to copy papers, is to tell us plainly that we are to proceed in the dark; it is and will be a deed of despotism, and therefore may well be linked with darkness. I wish it to be the deed of a single hand; it is a proper exertion of arbitrary power, in which the less concern parliament has, the better. Intelligence must be kept from us because it will not bear the light; if it was openly

and fairly laid before you, it would condemn in the strongest and clearest manner the principles and the provisions of this Bill, all of which it would be found are equally unnecessary and pernicious.

Mr. Attorney General. My opinion, and that of my learned colleague, were in writing, and lodged among our state papers; nor have we any right to read them in our places as servants of the crown. No person, without his Majesty's consent, has a right to them.

Mr. Edmund Burke. I am very sorry to find from the turn which the debate takes on the other side of the House, that we are to have no satisfaction relative to the information which every man of common sense must think necessary on this occasion: this is a fresh reason for condemning the Bill, since if administration thought their conduct in this Bill would bear the light, they would give you light to view it in, and rejoice in the opportunity of giving such a proof of their abilities and moderation. For what purpose is it that you would precipitate this affair? You have been nine years considering, weighing maturely, and reflecting perpetually upon what government should be given to this province: what harm can arise from a delay of a single year? What prodigious mischief is to result from the government of the province continuing one year more in the present situation?

Mr. Mansfield, counsel for the merchants of London, petitioners against the Bill, was called in, who, after a long speech, setting forth the dangerous tendency of the Bill, desired leave to call in Edward Watts. He being accordingly called in, was asked a considerable number of questions by lords Barrington, North, Clare, and Carmarthen, col. Barré, capt. Phipps, Mr. W. Burke, Mr. Mackworth, governor Johnstone, Mr. Hopkins, &c. as to the French and English laws in Canada, and to which the inhabitants gave the preference? He answered, the English laws. The Solicitor General desired to know: if the Canadians did not at first object to the court of King's-bench being established in Canada, and for what reasons? He answered, on account of the exorbitant fees paid to counsellors and attornies. After he withdrew, Mr. Samuel Morin was called in, and likewise spoke in favour of the English laws being exercised in Canada; they both mentioned that the Canadians, as well as the English residents there, highly approved of trial

by jury, and seemed to think that an annihilation of that right would greatly hurt the colony. The former of the witnesses had been nine years resident in Canada, the latter eleven.

A motion was made that an address be presented to his Majesty for a copy of the report made to his Majesty by lieutenant general Carleton, relative to the state of Quebec. But it was carried in the negative, Ayes 46, Noes 85. A motion was afterwards made for another address for copies of papers presented to his Majesty, by his Majesty's advocate general, attorney and solicitor general, relative to Quebec. This was also carried in the negative, upon a division of 85 to 45.

June 2. The House being in a committee on the Bill, general Carleton was called in and examined.

Mr. Mackworth. What was the proceedings and course of justice in Canada, when you first went there?

General Carleton. There is a court of King's-bench and a court of Common Pleas, in which the proceedings are in the English form.

Mr. Mackworth. Did the Canadians express a dislike to the distribution of justice in that form?

Gen. Carleton. In some things they did, in others they did not. I never heard them express a disapprobation of the criminal law of England; but in relation to the law in civil trials, they have disapproved it greatly.

Mr. Mackworth. Did they disapprove the trial by jury?

Gen. Carleton. Very much; they have often said to me, that they thought it very extraordinary that English gentlemen should think their property safer in the determination of taylor, shoe-makers, mixed with people in trade, than in that of the judges.

Mr. T. Townshend. But if they had juries such as they approved of, would they then object to the English civil law?

Gen. Carleton. Their objections to that law are very numerous; they do not know what it is; and they expressed great apprehensions at being governed by a law of which they were ignorant: they also complained of the proceedings of the courts being in a language they did not understand.

Lord North. Did the general hear them complain of the want of the trial by jury in civil causes?

Gen. Carleton. Never. Though I have heard the same men praise the English law in points wherein it favoured their own causes, who at other times were much against it.

Lord North. Did they express wishes of having an assembly?

Gen. Carleton. Very much the contrary. In the conversation I have had with them, they have all said that when they found what disputes the other colonies had with the crown, upon account of assemblies, they would much rather be without them; and when they supposed that an assembly, if they had one, would be chosen from the old British subjects only, they expressed an horror at the idea of one.

Lord North. Does the general know the proportion of old subjects to those of new ones in Canada?

Gen. Carleton. The Protestants in Canada are under 400; about 360; but the French inhabitants, who are all Catholics, amount to 150,000.

Lord North. Are those 360, men of substance?

Gen. Carleton. Much the greatest part of them are not. There are some that have purchased seignories, some in trade, and some reduced soldiers: but the majority are men of small substance.

Mr. Jenkinson. Is there much intercourse or communication between those 360, and the rest of the province?

Gen. Carleton. Very little.

Lord North. Are those people, upon the whole, proper and eligible for an assembly to be chosen from them?

Gen. Carleton. I should apprehend, by no means.

Mr. Phipps. What is the extent of the cultivated and populous part of Canada?

Gen. Carleton. About 300 miles.

Mr. Phipps. Are there any populous settlements detached from that line, at a distance?

Gen. Carleton. None of consequence.

Mr. Phipps. Is the cultivation of the lands and the trade of the province much increased since the conquest?

Gen. Carleton. Very much.

Lord North. Does general Carleton attribute that increase to the introducing of the trial by jury and the English law?

Gen. Carleton. By no means.

Mr. T. Townshend. To what then does the general attribute it?

Gen. Carleton. To the change from a state of war to one of peace; the govern-

ment was before extremely military ; and military expeditions ever going on to a distance, great numbers of men lost, population hurt, and the people taken from the culture of the earth for those purposes. This change (for they have now enjoyed above ten years peace, with none of the inhabitants taken for the military) has wrought the increase of people.

Mr. *Turner*. Has not the increase of trade and wealth been much owing to the free export of corn ?

Gen. *Carleton*. I take it to be owing to the increase of people.

Mr. *Turner*. Was not the increase of cultivation owing to the export ?

Gen. *Carleton*. The cultivation I attribute to the increase of people. There must be the people before there could be the cultivation.

Lord *North*. Does the general know any thing of a Mons. Le Brun ?

Gen. *Carleton*. I know him very well. He was a blackguard at Paris, and sent as a lawyer to Canada : there he gained an extreme bad character in many respects ; he was taken up and imprisoned for a very filthy crime with children of eight or nine years old ; for this he was fined, I think, 20*l*. but being unable to pay it——

Mr. *T. Townshend*. I desire the general may withdraw. [He withdrew.] Sir, I know not what use is to be made of this part of the evidence ; but sure I am it is a most unprecedented thing, and such an one, as an independent member of parliament, I cannot see and hear without interrupting it : you are criminating a man unheard—not before you—and with whom you seem to have nothing to do.

Lord *North*. This M. Le Brun has come over from Canada to make representations that it is the general opinion, desire, and wish of the Canadians to have an assembly : I thought it right to know how likely he was to know the opinion of that country ; and what degree of dependence could be placed in his testimony : but I shall ask no more questions concerning him. [The general called in again.]

Mr. *Phipps*. Were there any other objections to the English law than what the general has mentioned ?

Gen. *Carleton*. I recollect an instance against the criminal law. Some Canadian and English gentlemen were apprehended for a crime, and laid in gaol ;—the whole province supposed them innocent, and the jury found them so ; the nobility com-

plained, that by our law they were punished by a severe imprisonment, which, in the French law, they would have escaped. This made a great impression upon them, and prejudiced them very much against even our criminal law.

Mr. *Maseres* called in, and examined.

Mr. *Solicitor General*. What form of government have the Canadians expressed themselves most desirous of ?

Mr. *Maseres*. They have no clear notions of government, having never been used to any such speculations. They will be content with any you give them, provided it be well administered.

Mr. *Mackworth*. Have they expressed any dissatisfaction at the trial by jury in criminal matters ?

Mr. *Maseres*. They like it very well.

Mr. *T. Townshend*. Do you know that they have any objection to the same trial in civil cases ?

Mr. *Maseres*. Certainly they have ; but they principally consist in the expence and trouble of that attendance. Were they allowed a compensation, I should apprehend they would be well satisfied in all cases ; and I think so small a sum as five shillings a man would do for that purpose.

Mr. *Solicitor General*. Does Mr. *Maseres* think that they would be pleased with the abolition of their old customs by the introduction of our civil law ?

Mr. *Maseres*. A total abolition of their customs relative to descents, dower, and the transfer of land, would be highly offensive to them. In other matters I believe they would be very well satisfied with the English laws.

Mr. *Mackworth*. Would they have any objection to the law of Habeas Corpus ?

Mr. *Maseres*. It is impossible that any people should object to that law.

Mr. *T. Townshend*. Did not the Canadians think themselves promised, by the proclamation, the benefit of an assembly, and do they not now desire to have it ?

Mr. *Maseres*. As to an assembly, they have a very confused idea of what it is ; the generality of the people have no desire to have it, for they know not what it is ; but there are a few among them who have considered the matter, and they would prefer an assembly.

Mr. *Mackworth*. Does Mr. *Maseres* think that the provisions of this Bill for the government of Canada are the freest that could with propriety be granted ?

Mr. *Maseres*. Certainly not; I have sufficiently explained to the world how I think there might have been a judicious mixture of law for the free government of that province.

Mr. *Dunning*. Is Mr. *Maseres* acquainted with the laws of Canada?

Mr. *Maseres*. I have some slight knowledge of them.

Mr. *Dunning*. As by this Bill resort is to be had to the laws of Canada, and not to the laws of England, in all matters of property and civil rights, I would ask Mr. *Maseres*, whether the governor of the province will not have a right by the laws of Canada, if this Bill should pass, to issue a *lettre de cachet* to imprison any of the King's subjects in the province?

Mr. *Maseres*. I believe he would not have a right to imprison persons by *lettres de cachet* signed by himself; because I have always heard that no *lettres de cachet* are ever used for that purpose in France, or the French dominions, but such as are signed by the French king himself. But I have also been told, that blank *lettres de cachet*, ready signed by the King, are sometimes given to governors and intendants of provinces, to be used by them as occasion shall require.

Mr. *Dunning*. I desire then to know, whether if *lettres de cachet*, signed by the King, were to be delivered to the governor of Canada, after this Bill shall be passed into a law, these *lettres de cachet* might not, in Mr. *Maseres*' opinion, be lawfully made use of by the governor, to imprison the King's subjects in that province?

Mr. *Maseres*. [After some pause.] I think they might.

Mr. *Solicitor General*. I desire to know of Mr. *Maseres*, upon what principle of the French law he supposes the authority of issuing *lettres de cachet* to be founded?

Mr. *Maseres*. I do not know. It seems probable, that it was at first an usurped authority. But it is now constantly practised, and acquiesced in throughout the French dominions, and is therefore now understood to be the legal prerogative of the crown of France, whatever might be its origin.

Mr. *Solicitor General*. Mr. *Maseres* does not rightly apprehend my question. I will explain myself. I want to know in what capacity the French king is supposed by writers upon the French laws and government, to act, when he issues a *lettre de cachet*?

Mr. *Maseres*. I do not yet thoroughly comprehend the question.

Mr. *Solicitor General*. I mean to ask whether Mr. *Maseres* does not understand the king of France to act in his legislative capacity, when he issues one of those letters?

Mr. *Maseres*. I have never yet considered the relation between a *lettre de cachet* and the legislative authority. It may perhaps be on that authority that the right of issuing those letters is grounded, or said to be grounded. I cannot say to the contrary. Yet there seems, at first sight, to be a considerable difference between a law and a *lettre de cachet*; since a law is generally understood to be a previous declaration of the will of the lawgiver, or lawgivers, whether one or many, upon a particular subject, with penalties annexed to the breach of it, when so previously declared; whereas a *lettre de cachet* is a sudden exercise of power without such a previous declaration of the will of the legislator.

Mr. *Solicitor General*. Though Mr. *Maseres* has not considered it in that light, yet it is certain, that the French king's power of issuing *lettres de cachet* is generally understood by the writers on the French laws and government to be a part of his legislative authority, by which he provides for the sudden emergencies that occur in government, as he does by the more formal kind of laws for the usual business of the state. And, consequently, as the King of Great Britain has not in himself alone the legislative authority over this kingdom, and the other dominions of the crown, but this authority belongs to the King and the two Houses of Parliament conjointly, this power of issuing *lettres de cachet*, in the province of Quebec, which had formerly belonged to the French king, by reason of his being the sole legislator of that country, cannot, by this revival of the laws of Canada, accrue to the King of Great Britain, who is not the sole legislator of it, but only to the King and the two Houses of Parliament, who are so. I dare say Mr. *Maseres* must now see this matter in the same light that I do, and be convinced, that no *lettres de cachet* can legally be used in Canada, by virtue of this Act.

Mr. *Maseres*. This reasoning may perhaps be just. It is so new to me that I cannot undertake just at present to form a judgment of it. But though it should be just, and, in consequence of it, the use of *lettres de cachet* should not be legal, yet I cannot help thinking that, if they

were used, the subjects against whom they were employed would be without any legal remedy against them; for, if a motion was made on the behalf of a person imprisoned by one of them in the court of King's-bench in the province, for a writ of Habeas Corpus, or any other relief against such imprisonment, the judges would probably think themselves bound to declare that, as this was a question concerning personal liberty, which is a civil right, and in all matters of property and civil rights they are directed, by this Act of parliament, to have resort to the laws of Canada, and not to the laws of England, they could not award the writ of Habeas Corpus, or any other remedy prescribed by the English law, but could only use such methods for the relief of the prisoner as were used by the French courts of justice in the province during the time of the French government for the relief of a person imprisoned by the intendant or governor, by a lettre de cachet signed by the king of France. And such relief would, I imagine, be found to be none at all. Therefore, if it is intended that the King's subjects in Canada should have the benefit of the Habeas Corpus Act, I apprehend it would be most advisable, in order to remove all doubts and difficulties upon the subject, to insert a short clause for that purpose in this Act.

Lord North. I desire to know of Mr. Maseres, whether he does not think it would be criminal in a governor to make use of any such lettres de cachet, and in a minister of state to advise the King to sign them; and whether they would not be punishable here in England for doing so?

Mr. Maseres. If the lettres de cachet should not be in themselves illegal, I do not see how the governor could be punished in the courts of law for making use of them, nor the ministers of state for advising the King to sign them. The use of legal powers is in general no crime. Indeed, if legal powers are employed to bad purposes, there is one method of proceeding against the persons concerned in such abuse of them, and but one, and that is by impeachment by this House before the House of Lords. But this is an operose way of proceeding, and out of the common course of things. So that if the issuing lettres de cachet should not be absolutely illegal when this Bill shall be passed into an Act (and I am still inclined to think they will not be so), the poor objects of

them may linger a long time in prison, indeed one may say indefinitely, without any legal method of redress; therefore a short clause to establish the Habeas Corpus Act in the province seems to be highly expedient.

Lord North. I would ask the witness one question more before I sit down. Does he think it probable that, if this Bill should pass into a law, such lettres de cachet would be made use of?

Mr. Maseres. I do not think it probable that they would be used.

Mr. Hey, Chief Justice, called in.

Mr. Mackworth. Does Mr. Hey think that the Canadians are well satisfied with the trial by jury in criminal matters?

Mr. Hey. They are well satisfied with it.

Mr. Mackworth. Would they not be also satisfied with the same trial in civil matters?

Mr. Hey. Under certain regulations they might: for instance, if the unanimity required in England was dispensed with, and a majority of two-thirds of a jury of thirteen or fifteen was sufficient; and if they were allowed some compensation for the expence and trouble of attendance; also if the trial by that mode was optional in the parties; under these regulations, I apprehend, they would be very well satisfied with that mode of trial in civil as well as criminal cases. Half the year in Canada all business is stopped by the climate, which makes them much the busier the other half, and at that season they consequently find the attendance as jurymen a burden.

Mr. T. Townshend. Would they wish for and approve the other parts of the English law in civil matters?

Mr. Hey. They are very little acquainted with the English law, and from their ignorance of it, would be very much against its establishment. They are tenacious of their ancient laws and customs, and would esteem a total change a great injury to them.

Mr. Baker. Would they esteem the Habeas Corpus Act an injury?

Mr. Hey. I cannot imagine that any people would be so stupid as not to esteem it a benefit.

Mr. T. Townshend. Would not the Canadians think an assembly also a great benefit?

Mr. Hey. Very far from it: they are too ignorant a people to understand the

value of a free government: they are exceedingly obedient; would obey the King's commands let it be what it may: if he ordered an assembly to meet they would go, but they would not know what to do when they came there: the fact is, they are not capable of that government; they do not expect it: it is contrary to all their ideas, to all their prejudices, to all their maxims: their idea of a house of assembly is that of a house of riot and confusion, which meets only to impede public business, and to distress the crown; all which is a system extremely contrary to the ideas and principles of the Canadians.

Mr. *T. Townshend*. Did Mr. Hey ever hear of a plan or representation of what government would probably be successful in Canada?

Mr. *Hey*. There was a commission from his Majesty to governor Carleton, the Attorney General, and myself, to draw up a report of that government which would be most proper for Canada. In that deliberation I had the misfortune to differ in opinion from governor Carleton; my ideas were, that the laws of Canada might be blended with those of England, so as to form a system perfectly adapted to the wants of the Canadians, and also to the principles of the polity of this country. I would have left the Canadians all their laws that in any degree concerned the transfer, possession, settlement, or mortgage of landed property. I would have secured them their religious toleration and security; but I proposed to give them the criminal law of England, and the civil law as far as it concerned the rights of moveable property, the modes of trial, &c. This was a mixture which I imagined would answer the purposes that were wanting.

Mr. *Mackworth*. Is Mr. Hey acquainted with the laws of Canada, by which, in matters of property, he must conduct himself in case this Bill passes.

Mr. *Hey*. Not as a system; only in the cases which have come before me from the court of Common Pleas.

Mr. *Baker*. If this Bill passes, will there be any legal remedy for a man's being arbitrarily imprisoned?

Mr. *Hey*. That must depend very much on the constitution which his Majesty may be pleased to give to his courts of justice, which he is enabled to erect by this Bill. But if, as a chief justice, I knew of a man's imprisonment, I should be much

induced, if I found no law for the purpose, to make one, to have the prisoner brought before me, that the cause of his commitment might be known.

June 3. The House went again into the committee on the Bill, and M. De Lotbiniere was called in, and examined in French.

Mr. *T. Townshend*. Are you of Canada?—M. *De Lotbiniere*. I am.

Mr. *T. Townshend*. Of the corps of nobility?

M. *De Lotbiniere*. Yes.

Mr. *T. Townshend*. Do you know if the Canadians are desirous of having an assembly to represent them in the government of the province?

M. *De Lotbiniere*. They are very desirous of it.

Mr. *T. Townshend*. Why then have they not made representations to that purpose?

M. *De Lotbiniere*. Because they understand, that if they were gratified with an assembly, they would in consequence have the expences of the government to support, which in the present state of the province would be much more than they can support.

Lord *North*. Did M. De Lotbiniere ever hear any material objections to the establishment of a legislative council?

M. *De Lotbiniere*. I never heard it particularly debated, nor any objections.

Mr. *T. Townshend*. Does he think the Canadians are not desirous of a more free government than a governor with a council, the members of which are appointed, removed, and suspended by him?

M. *De Lotbiniere*. They would certainly desire a freer government.

Lord *Beauchamp*. But if some of the noblesse were admitted into that council, would they not then be well satisfied?

M. *De Lotbiniere*. They might then be satisfied.

Lord *North*. Would the noblesse be desirous of an assembly in which the bourgeois were admitted to sit in common with themselves?

M. *De Lotbiniere*. I do not apprehend they would object to that, if it was the King's pleasure so to have it.

Mr. *T. Townshend*. Have they been displeased with the English law?

M. *De Lotbiniere*. While the circumstances of lands have been left to the Canadian laws, they like the English judicature very well.

Dr. *Marryott*, Advocate General for Quebec, was called in.

Mr. *Mackworth*. I desire to know of the gentleman at the bar, what would be the best establishment of laws in the province of Quebec, in his opinion?—A. It is difficult to say upon any subject, in this world, what is best for any men or set of men of speculation: that which succeeds best in public and private life is best; and therefore I cannot tell what will be best for the Canadians.

Does he think that the Canadians would chuse the system of English law, or the French law?—I do not know a single Canadian. I never was in Canada.

Does the gentleman think that the commerce of this country, and the province, would be hurt by a revival of the French laws in cases of property?—I cannot tell.

Does he know any thing of the state of Canada?—What I know is from such papers as have been laid before me, by order of the King in council, and by information of other persons.

Captain *Phipps*. I desire to ask if he understands the French law?—I find it very difficult to understand any law.

Does he know the power of the French king, under the constitution of the French laws?—I do not well understand the constitution of France. I never was in France. It is a very hard thing for a foreigner to obtain an adequate idea of the constitution of another country. The constitution of one's own requires a great deal of close application and study: I wish I understood it better; and that many other people would study it more, and understand it better than I fear they do.

Does he understand the constitution of Ireland?—No: I never was in Ireland.

Mr. *Dempster*. Does he think it expedient to give the province of Quebec any part of the French constitution?—The question is upon the word 'expedient.'

I mean, will it be wise and prudent?—By the words 'expedient, wise, and prudent,' I understand the question to mean, whether it will be politically wise and prudent. Expediency is ministerial language. It is a word of state: state expediency. It means that high policy, that great arcana, the sublime of government, extended almost beyond the reach of human wisdom. Few that can pry into this sort of knowledge. Fewer that can comprehend it. I am sure I do not.

The gentleman, by the nature of his of-
[VOL. XVII.]

fice, and greatly informed as he is from his connections with government, and his own reading, must know much concerning the actual state of the province of Quebec; I desire he will answer what sort of government he would give to it?—The giving laws to mankind is the perfection of all knowledge, human and divine. It is not the work of days, of months, of years, but of ages. For me to answer that gentleman's question, what sort of government I would give to the province, I must be the vainest of men.

From such papers and informations as have been laid before the gentleman for his consideration, I desire to know in general what is his idea of a civil establishment for the province of Quebec, the properest to be given it by the legislature of this country?—It depends upon a most extensive knowledge, infinite indeed, of the relations of men and things, times and circumstances; the positions of both countries; the manners and genius of the people; the wants of the province; the views of the mother country; the conduct of the neighbouring colonies; the state of the nation *vis à vis*, or respecting them and the designs of the rest of Europe. These relations change every moment; this vast political prospect is for ever doubtful and floating; it contains too many objects for my short vision and poor comprehension. My answer therefore to the question, What is the properest establishment for the province of Quebec, to be given by the legislature of this country, is, I cannot tell.

Mr. *W. Burke*. There is an absurdity in this answer. The gentleman spoke of an infinite knowledge of men and things, times and circumstances, and yet he says, he cannot tell.

House. Read the Minutes.

The Clerk read the minutes; as Mr. Burke had represented them.

Dr. *Marryott*. They were not my words—It depends upon a most extensive knowledge, &c. &c. that is, the question depends—The words 'it depends' were left out.—Repeats as above.

Mr. *Baker*. I would ask the gentleman at the bar if ever he has read any thing of the laws of France? I believe he has read a great deal.—I have read a little of the French law.

Does he understand it?—Not the stile of it, nor its forms very well.

What does he mean by the stile of it?—There is in every civilized country, in which a system of civil laws is established,

a law-language—as there are in every art and science words and phrases peculiar to them, only understood by the persons who practise those arts and sciences; I correct myself: not always understood perfectly even by them, for they frequently dispute about the force and meaning. The law therefore calls these arts, crafts and mysteries. The French have a serious word for the stile of law; they call it ‘jargòn:’ we ludicrously use it ‘jargon.’ It is a cant word.

Did he ever see any system of the French law in Canada?—I have read a collection of French laws, which contains, by way of abstract, the laws and usages of that province, founded on the laws of the *Prevôte* of Paris; and it also contains several ordinances of police and *arrêts* of the French king.

Does he understand them?—Some part of them: the law-language is difficult.

Is there not in that collection something concerning the *jus retractus*?—I suppose the gentleman who puts the question means the *rétroit lignager*. It is the right which a lord of a fief or a manor, and first original possessor of a grant from the crown, has to receive some indemnifications from those persons who are called the *arrier tenants*, who hold under him. There is such a title as *rétroit lignager*.

If the French civil laws were revived, or suffered to remain in Canada, would it not be a discouragement to the old British subjects to go and trade there, and make purchases of lands?—If old British subjects were to go thither, the French civil law remaining in force, or being revived, they would go thither at their option and of their own free will, as they now go to Jersey or Guernsey, where the French laws prevail. Or for another instance, if you please; if any person on speculation thought of going to buy an estate in Scotland, if he found that he did not like the Scotch law and inhabitants, he might do a better thing, keep his money in his pocket and stay at home; a thing much wanted in this country.

Mr. *Dempster*. On what terms do you think, in the state of things in Canada, an English merchant going to settle there would hold any lands which he should purchase?—*A*. On the same terms as the Canadians held them who convey the lands: or if the new settler takes them by grant from the crown, he will then take them on the same terms as any other grantee would do; that is to say, on such

terms as the granter shall please. All is voluntary on the part of the purchaser or grantee—he may take the lands, or he may leave them.

Has he given no opinion upon the subject of Canada?—I have.

In what capacity, and to whom?—As his Majesty’s Advocate-General, to his Majesty in council, I drew up a plan of a code of laws.

Will the gentleman be pleased to give the House some account of the plan?—I had the honour of his Majesty’s commands in council, together with my brethren in office, the attorney and solicitor general, to consider a great number of papers referred, and to call for such persons as could give me information upon the subject; and to prepare a plan of civil and criminal law for that province: it was referred separately to each of us three, as being the law officers of the crown. I drew up my plan accordingly.

What was the plan?—I drew up my plan in the following method: after stating the principles of legislation, and representing what appeared to me to have been the late condition, and now to be, and likely to be hereafter, the state of the colony, I formed my plan under four heads: the courts of judicature; the common law of the province; the revenue; the religion.

To whom did he deliver that plan?—To his Majesty in council.

As doubtless it was very extensive in point of knowledge and information, the House would be glad to know the contents?—I stand here as his Majesty’s servant: my colleagues next to me in office, who have given their opinions as well as myself to his Majesty, are within the bar. When an advocate or counsellor gives his opinion, it is the property of his client. His Majesty is in possession of my opinion. If this House does me the high honour of being desirous to know my sentiments, such as they are (and they are very free ones) the House will then address his Majesty to lay my opinion before the House. If the House will not agree to that address, my sentiments must remain deposited with his Majesty, in his great wisdom, where they now most happily rest.

When somebody moved to have all the papers laid before the House, the motion was over-ruled, on the ground that we might have complete information at the bar. I fear we shall not have it where we wish it, and were bidden to expect it.

What is the sum and conclusion of that opinion?—In a question so extensive, and which involved every possible consideration of policy, and very little of law, I drew up my opinion with all that modesty and diffidence which became me. The danger of positiveness in speculative opinions is too obvious to every man of a right mind. The more I viewed the subject on every side, the more difficulties occurred to me. I weighed all facts and reasonings in a true balance, without bias to any man or any party, but found it hard, after the whole result of my enquiries, to fix decisively what the system of law ought to be for a people so remote from home, of whose manners and wants we know so little. My method of proceeding was, I collected all facts as represented to me, and as far as other persons, who well knew the colony by having been in it, were agreed in their reports made to the King's government. I then brought all the facts and probable reasonings together in one general point of view, for the assistance of my two colleagues in office, that they might form an easier decision on their part. I drew indeed my own conclusions, but they were not positive, but open to better reasonings. I therefore, through the whole, adopted the stile and manner of that which Cicero calls the *deliberativum genus dicendi*; I submitted every thing to his Majesty's wisdom in council, aided by opinions and arguments of much higher authority than any which I could offer.

Can the gentleman recollect any parts of the opinion which he gave?—I answered before, that doubtless if this House will address his Majesty, they will have the whole of it before you: I have no objection, I am sure, for my part; but my memory will not serve me to repeat so extensive a work.

Does it agree in substance, or part, with the Bill now depending before this House?—I know nothing of such a Bill officially. A printed paper, with a title of a Bill relative to the government of Quebec, was put into my hands only two days ago, by a friend accidentally. Not having the honour to be a member of this House, I cannot, according to the rules of it, take notice of any thing proposed within its walls. If the House were pleased to refer the Bill to me, I should desire to take it home, to read it with great care and deliberation. And if I were within the bar, as I am now without, I would give my opi-

nion upon the Bill in my place as freely, and with as much courage as any man upon this ground.

The gentleman owns that he has had much information: I wish he would tell us what?—The same as the House has already heard just now, and from some of the same persons.

Mr. Cavendish. If we cannot have the whole of his opinion, will he give us some of the very learned quotations in his book.—A. So many compliments would naturally draw a positive answer from any person capable of feeling the flattery and giving an answer; but I do not know what the hon. gentleman thinks of me. It is not a little memory or a little time will serve to repeat all the quotations of civil and common law, and all the French and Latin extracts which I have used. I have used a great many in dressing out my own thoughts. Quotations are commonly among authors but the mere ornaments, the fringe and trappings of a book. They only shew that the man who uses them, has read a great deal; but they do not prove how much he has thought, and whether well or ill; and they shew he has thought like other people who have thought and wrote before him. If I could possibly recollect and repeat this amass of the opinion and informations of other men, I must be very tedious, and appear very pedantic to the House. I question much whether a walking library would be tolerable in these walls. I cannot remember the quotations.

Mr. W. Burke. Will the gentleman tell us how long he was composing his plan? (it must require great labour and study) and how many pages it contained?—A. About 300 pages closely written.

What was the time it took up to compose it?—I cannot exactly tell.

Was it several months?—Ten or twelve months, at different intervals to compose it. But if I am to speak to all the time that I was thinking upon the subject, the time was near two years. I took it up, laid it in my desk; took it up, and laid it in my desk again, that it might ripen in my mind. I saw my difficulties of coming to a decision increased. I dreaded being hasty or positive, and I thought no trouble too much on such a public subject, which appeared too much for the life of any man, and most certainly for any one man's understanding.

I desire to know, Mr. Chairman, what was the name of the thing which he took

up and laid down so often, and which he delivered in at last to his Majesty?—I think, Mr. Chairman, I remember the face of that gentleman who asks me the question, “What is that thing which I took up and laid down so often, and delivered in to his Majesty?” I answer, when that gentleman was himself in office, he very well knew what sort of things are the opinions of crown lawyers.

Mr. *W. Burke*. Mr. Chairman, the witness at the bar has behaved without any respect to the House. It was enough for the House to be insulted elsewhere. We are in an abject state. I say so, and others think so. We are very ill used. The upper House had used us ill. They shut us out, not for fear we should hear what they did, but for fear we should see they did nothing. They frame the Bill there, delay it by keeping it in their hands, then send it down to us; and now we are to hurry through it without sufficient information; and nobody will own it. The doors are shut upon us; nobody will give us information. I said, the gentleman at the bar said he had a knowledge of men and things, and yet he said he could not tell. I am not guilty of any blunders, any Iricism. The Clerk mistook as well as I. The gentleman says, he does not know the constitution of France; he does not know the constitution of Ireland; he never was in Canada; the King is his client; he will not tell you what advice he has given the King; we have a right to be informed by him. The minister told us we should be so; and now, truly, the witness will not give an answer to any thing, what his real opinion is. By the rules of this House, no witness at the bar is to answer any thing personally touching a member. It is a disrespect to the House. The questions are to be put to the Chair by a member; and the Chair, which represents the House, is to put the questions to a witness. He is to return answers to the Chair, that is to the House. If an improper question is put, the House may over-rule it. I always behave like a gentleman; I know the gentleman at the bar, though I am not intimate with him. He has taken fire at my expression; I did not mean to affront him. He would not tell us what it was he had delivered: he himself therefore forced me to call it that thing which he delivered. I had no other way to express it. I am ready every where to demand or give satisfaction, where there is an affront offered or re-

ceived. I desire the gentleman may withdraw, and to know the sense of the House, whether I put an improper question, or the gentleman made an improper answer?

[Mr. Marryott was ordered to withdraw.]

Mr. *Pulteney*. It is certainly very irregular for a witness at the bar to answer any thing relating to a member, personally, who puts the question. It was always in my opinion wrong, considering that gentleman's situation, to call him to be examined; but we were refused the perusal of his opinion, and the papers. The Attorney and Solicitor General here refused to tell us what were the opinions which were given in by them. I often have observed much debate and confusion occasioned in the House, when a witness of wit and abilities is examined. It should be remembered by both the persons, by the one who puts the question, and by the other who gives the answer, that the question is put by the House, and the answer is returned to the House. An attention to this would preserve reciprocal decorum.

Captain *Phipps*. I must observe to the Committee, that this examination is getting into a train which appears to me to be very improper. Sir, when men of great parts and abilities, and much wit, come to this bar, I cannot help condemning that kind of applause which is given them, for exertions of that wit, though very unseasonable. I may have been guilty of joining in this encouragement to a witness, but am sure the Committee sees, by this time, that if we proceed thus, the witness will have been called to the bar to very little purpose. Besides, Sir, there is a conduct in witnesses that is not at all consistent with the dignity of this House. I therefore hope, that the witness, as well as any others that may come to this bar hereafter, would recollect, that although the House owes much to the situation of a witness, yet does the witness owe something to the dignity of the House.

Lord *North*. I rise to answer the hon. gentleman who was so warm. He is angry that the gentleman will not tell you what his opinion was. He made a complete answer to his question. He said it was a deliberative opinion; that he made no decision. I do admit, that the answer of a witness, by the rules of this House, should not be any thing personal to the member questioning, however impertinent, rude, or absurd, the question may appear

to him. The rank and station of the gentleman at the bar ought to be considered. The word 'thing' is understood generally as a word of contempt. Nothing contemptible comes from the gentleman at the bar: such a word might naturally strike him: and his not being a member of this House, so as to know the rules of it, excuses him for shewing his spirit on the occasion, when he thought himself affronted. He is under the protection of the House, and no improper question ought to be asked. In that case he may demand the protection of the House, and so may every person who is examined at this bar.

Mr. *Edmund Burke*. I rise to apologize for the hon. gentleman next me. I am perfectly sure he did not mean to affront the gentleman at the bar. I know the gentleman there extremely well, his great abilities, learning, and character; he has distinguished himself by his writings and behaviour, and nobody here or any where else can treat him with contempt; but we should have been very glad to have had his information. I am sensible that he is in a very trying situation. His information is withheld. It is a distress upon him, and an insult upon us to refer us to him, when it was known beforehand that it was not likely that he should think himself at liberty to give us his opinion *viva voce*, after what he has written was refused us by others. It was, however, very natural for us to call for him. We had no other hope of obtaining any information of great authority. All the world knows that the king's advocate general, the attorney and solicitor general, from the nature of their very high offices, have the power of obtaining every sort of information. All is open to them in every department of government. They can enter behind the veil. The *sanctum sanctorum* of state must be frequently and confidentially submitted to their view; but the curtain is drawn upon us, and the door is shut. How, then, are we to get information? I ask; shall we have it from the other crown lawyers? The answer is, they stand upon their own ground, and take and narrow it when and where they please, as members within the bar; and the gentleman who precedes in office, but who stands without the bar, necessarily suffers from a variety of torturing questions put to him on speculative points, which it must put any man under difficulties to answer, especially one in his station. I never should have concurred in the mo-

tion to examine him, if the former motion for the address for papers in general had not been over-ruled.

Dr. *Marryott* was again called in.

Chairman. Sir, you are to address yourself to the chair.

Captain *Phipps*. Under what denomination are the papers which were delivered in by the advocate general to the king?—*A*. A report.

Mr. *Mackworth*. I wish the gentleman would give a short account of the substance of that report, as concise as he pleases to make it.—*A*. I thought I had before given an account of the contents, and of the plan. It is impossible to give a short account of a long affair.

In that report does he approve of juries; does he like them; what does he think of them?—I should choose to be tried by them. But I think of juries as I do of every thing else in this world; every thing is imperfect. I have often considered the different modes of trial in different countries; the civil law courts, the courts of common law, and chancery; their modes are all defective in discovering truth. Juries are like most other men and things; they have their excellent qualities, and they have their bad ones.

Does he think it will be a hardship upon the Canadians not to have juries? Not to have their lives and properties tried by a jury out of their own neighbourhood? Would it be their happiness or unhappiness?—If I were a Canadian I could tell what would make me happy: if I were to go to Canada I could tell the same. As an Englishman, I say that juries are a mode of trial which I like; they are very favourable to the property of the subject, and the natural liberties of mankind.

Mr. *Dempster*. Does the doctor think that the present Bill is calculated to give as much freedom to Canada as is expedient to give?—*A*. Expedient to give them! I answered before to that question; it involves a thousand others.

Mr. *Jenkinson*. Does he think that the Canadians will not suffer greatly if the Habeas Corpus law is not introduced among them?—*A*. I desire the question may be repeated; the merit of the Habeas Corpus law is a great constitutional question.

[Question repeated.]—The idea of the suffering is the idea of the sufferer, and not of a third person; I cannot answer for the feelings of the Canadians.

Cannot the gentleman conceive the pain of another person?—No person has a true impression of the degree of pain or pleasure of another being; there is no complete medium to convey the sensations; words will not do it. No person can tell what a man of probity and reflection, who wishes to judge without error, and to do his public duty in an arduous question, feels, when put upon the rack of opinion. No man in this place exactly knows how I feel, in my particular and relative situation, by being so long kept at this bar, and called upon to answer every sort of question that can be imagined about all possible and probable things from such a variety of persons. Witnesses, by all the law I know in the world, are called every where only to speak to facts; to opinions, no where; except in one court of religion, in the world.

The gentleman then has, I find, some sort of idea of another man's suffering, although not an adequate and perfect one. Cannot he tell the House, supposing that I were to give the gentleman who sits below me a slap on the face, what he would suffer? [The member who put the question being a very slightly made man, and the gentleman who sat beneath him a very stout man, and the latter turning round quick to look at him, it occasioned a loud laugh.] I mean, what would a person struck suffer when there are visible signs of a violent blow? suppose that the blood gushes out of the nose?—The noses of some people bleed without pain. That gentleman might have a blow on the nose, and he might feel it. I should not. I mean, he would feel it if he were sober; if he were drunk he might not; he might take it all in good part; and as for the blood, swear it was all good claret.

A Member. Repeat the answer.—*A.* If he were inebriated he might not feel. Mr. Chairman, I hope my answers are not improper. I desire to be serious. I am in earnest. The answer, I take it, by the law of all evidence, ought to be of the same colour with the question, and pointed to it.

Chairman. Right, certainly.

Col. Barré. I would not desire to distress the learned gentleman at the bar. He is certainly under personal difficulties in his situation of office, and not being a member. But I see he bears his examination with much patience and good humour. We were all going to be very dull, and he has enlivened us. He has been asked

above a hundred questions, and has parried them all: not one decisive answer. I did not expect he would have kept his ground so stoutly against numbers. I will now beg leave to try him. I undertake, Sir, to ask him one very easy question, which I think he may and will answer. What does he think is the king of Prussia's religion?—*A.* I have read some of his works; if the writings I mean are really his; although some people have doubted the title, "*Oeuvres du Philosophe de Sans Souci.*" His religion may be judged from them.

I desire to know, Sir, what he judges the king of Prussia's religion to be?—From them? I believe his majesty has no (formal) religion.

If the province of Canada were to be ceded to his Prussian majesty, what religion would he introduce into it?—*A* soldier's religion.

What is a soldier's religion?—If I were a soldier, Sir, I would answer the words; my honour.

What is a lawyer's religion?—His honour too; not to give up his client. But I suppose the gentleman knows there are two orders of men in this country, the civilians, and the common lawyers. I am no common lawyer.—The religion of which?

Of both.—The common lawyers must answer for themselves. I can readily answer for the civilians; they are ecclesiastical lawyers, and subscribe; they are of the religion of this country by law established.

Col. Barré. I see, Sir, there is no hitting the gentleman. But I have read an opinion of some weight in a book here in my hand: it is so laid down, that I think the gentleman cannot escape answering to it. With the leave of the House I will read it: "In order to judge politically of the expediency of suffering the Romish religion to remain an established religion of the state in any part of your Majesty's dominions, the Romish religion, I mean its doctrines, not its ceremonies, ought to be perfectly understood. The opinion of the royal author of the *Memoires de Brandenburgh* seems to be conclusive on this head to every sovereign power, that the Protestant religion is best both for the prince and the people; because there is in it no middle power to intervene and stand before the prince against the people, nor before the people against the prince." The House now sees why I put the other question.

Did the gentleman ever read the *Memoires de Brandenburgh*? Is that which I have read the king of Prussia's opinion? Is that opinion in the *Memoires de Brandenburgh*?—I have read a book with that title: but whether that book was his writing, or whether, being his book, that was his opinion (for many people write books, who are not of an opinion with their own book), I do not know. There is something very like that opinion in the book.

The book, Sir, in which this opinion is recommended and adopted, ends with the name of the gentleman at the bar. He has subscribed to that opinion.—Dr. M. [Bowing with great respect round to the House, and laying his hand on his bosom;] I now subscribe to that opinion most seriously—and most sincerely.

The Advocate General was ordered to withdraw. The House went into a debate, in the course of which Mr. Charles Fox and Mr. T. Townshend agreed with Mr. E. Burke, that it was wrong to have examined the King's Advocate General, and to force him to give an opinion to the House; and laid the blame on the minister, and those persons who opposed the motion for the papers.

Mr. Baker moved, "That general Murray be examined as a witness." Notice being given, that the general was not in the House, the Serjeant was sent out for him, but he was gone home. As soon, therefore, as the Speaker took the chair, Mr. Baker again made a motion, "That general Murray be ordered to attend the Committee on Monday." He was seconded by

Mr. T. Townshend, who set forth the necessity of his attendance; and said, he could assign no other reason for his evidence being denied, unless it was that he himself had been imprudent enough to declare to the House, that general Murray coincided with Mr. Maseres; and said, he believed when the noble lord gave his consent to hear him, and sent the Serjeant to look for him, he well knew he was not in the House.

Lord North rose in a terrible passion, and said, he cared not what the hon. gentleman thought of him; that he never paid any respect to what a passionate and prejudiced person said; that he knew the hon. gentleman had an ill opinion of him, and he was welcome to think so still. He said, had general Murray been in the House he would have heard him, but as he was not, summoning him for another

day would greatly delay the business, and he should therefore oppose the motion.

Mr. T. Townshend rose, and in a spirited manner answered, that he would submit to the House which seemed most passionate; that he was certain general Murray's evidence was material; and as to prejudice, he desired nothing but that it might be remarked, he was prejudiced to hear general Murray, the noble lord was prejudiced against hearing him. He then set forth, that by this law the fishery on the Labradore coast would be altered, which would affect the Newfoundland fishery; that as it was an affair of great consequence, admiral Palliser would be necessary to be examined; but as the noble lord objected as to time, he would not move for his attendance, but only wish to refer the noble lord to him for information.

Colonel Barré set forth how material it was to have general Murray's evidence, as he was at the taking of Quebec, was governor of the colony the first after it was taken, and remained governor several years after, and therefore, consequently, knew the manners and customs of the Canadians; that, as he had been resident there at so critical a juncture, he must have seen how they liked the French laws, and how they liked the English laws.

Captain Phipps was likewise much for the general being heard, saying, that the evidence produced had been deficient in many points of information which he could have wished to have heard.

Mr. Charles Fox rose, and in the most sarcastic manner attacked lord North, as to passion and prejudice. He said, the noble lord always had two opinions; that most people's second opinion was best, but the noble lord's second thought was generally the worst; that he was always very uniform in his conduct, for about half an hour before he gave leave for general Murray to be heard, but now he was against it. He said there had been no other objection started against the motion except want of time; that that was ridiculous, for the persons who brought in the Bill now, might have brought it in at the beginning of the session, or even last session; that they could not make an excuse, and say it was a case of such urgent necessity, that if the Bill did not pass in a day or two, the place would be entirely ruined, therefore the Bill must pass.

Lord North rose to explain himself, and

said he had often been accused of having panegyrists in pay to write in favour of him in the news-papers; that he then would solemnly protest that he never had employed, or knew any person that ever did write in favour of him; that he did not wish for news-paper applause, as it was generally meant to serve some end; and as to panegyrics on him, he believed, if they only looked into the opposite scale, that which held abuse, they would find the account had been more than balanced.

Mr. Dempster, governor Johnstone, Mr. Burke, Mr. Baker, Mr. Turner, &c. spoke in favour of the motion, and none but lord North against it. The question was put, and the House divided; for the motion 36, against it 90.

June 6. The House went again into a Committee on the Bill.

Governor *Johnstone*, after stating his objections to the principle of the Bill, and to the extension of Canada, read a list of propositions, which appeared to him to be contained in the Bill, amongst which were;

That a state of slavery is better than a state of freedom: that the Popish religion is better than the Protestant: that juries are unnecessary, and therefore to be disused: that monopolies are useful to trade: that it is easier to go up a river than down a river: that French laws and commercial regulations are preferable to English: and that the constitution, which our ancestors had framed with so much wisdom, and established at the expence of so much blood and treasure, is to be destroyed by their wiser sons.

Mr. *Burke* spoke against the Bill; but confined himself to the point of ascertaining the limits of New York; and proposed the following to be the boundaries of Canada against that province, viz. by a line drawn from a point on the east side of Lake Champlain in 45 deg. N. latitude, and by a line drawn in that parallel west to the river St. Lawrence, and down that river to Lake Ontario, and across that lake to the river Niagara, and from Niagara across Lake Erie to the north-west point of the boundary of Pennsylvania, and down the west boundary of that province, by a line drawn from thence till it strike the Ohio. After some debate this passed. The limits of Quebec were next carried along the Ohio to the Mississippi. Governor Johnstone spoke against the annexing the Illionois to Canada. There was

another debate on annexing the coast of Labrador to Quebec. The objection was begun by sir C. Saunders, who deduced from it the loss of the fishery to the Americans. Lord North gave an account of the sea-cow and seal fishery on the Labrador coast, and shewed, that from the sedentary nature of it, it could not be conducted upon the same principles as the Newfoundland fishery. Upon this clause the House divided; 88 for it, and 49 against it.

June 7. The House in a Committee on the Quebec Bill. The second enacting clause of the Bill being read, which revokes all laws and ordinances made for the settlement of the province since 1764, and ordains, that they shall cease and determine on the 1st of May, 1775, Mr. Burke moved, that that part of the clause should be left out. He was seconded by governor Johnstone. A debate ensued, but the committee divided, Ayes 91, Noes 31. It then proceeded to the third enacting clause relative to the establishment of the Roman Catholic religion, and the provision to be made for the clergy of that persuasion; which was carried without a division. A motion was then made to adjourn, it being past eleven o'clock, but the friends of the Bill insisting to go on, a debate arose, and the committee divided; for proceeding 75, against it 31. Several of the most strenuous opposers of the Bill now quitted the House, and the Committee proceeded, with very little interruption, through the two next clauses, the 4th and 5th.

June 8. The House in Committee on the Quebec Bill.

Mr. *Burke* said, he had last night, when it was past eleven o'clock, moved to adjourn, but his motion was rejected on account of the great necessity of going through the Bill with all possible dispatch; yet he understood they were to adjourn on account of a champêtre to be given by a noble lord (Stanley), and therefore desired to know which ought to be given way to most, the pleasures of dissipation, or a Bill of such magnitude as that before them? He said, he had several very material amendments to propose to the clauses, which had been so slovenly and scandalously gone through that morning, but now he was precluded.

Lord *North* replied, he was sure he had shewn great candour to the House at the time the hon. gentleman mentioned, and

that he should always trust to his conscience for the uprightness of his conduct.

Mr. *T. Townshend* rose, and answered the noble lord as to the slovenly manner in which the two clauses mentioned had been carried through the committee; he said, he likewise understood that the House was to adjourn a day on account of a champêtre, and to be sure, the 9th day of June was more proper for a champêtre than for a committee of the House of Commons to be sitting on so important a Bill; but he, at the same time, could not but allow that the noble lord had an amazing foresight, in ordering, above all days in the year, the 10th day of June, for the finishing a Bill to establish Popery: he said, the day was truly characteristic to the business; and he made no doubt, but the noble lord and his party would come with white roses in their breasts, which would at once make them truly respectable; he said, however, he should have a clause to introduce on the report, which, if the noble lord would suffer it to pass, he should be so far devoted to him as to smirk and smile with the rest of his friends.

Mr. *Edmund Burke* also, in a most pointed speech, attacked the noble lord as to candour and conscience: he ran on in such a vein of humour that the House was in a continual laugh during the whole of his speech. He said the noble lord ought to be highly commended for his humility, for he always gave way to the majority of the House; he said, as to the father of the Bill, he would be bold to say the noble lord was the father; he brought it into that House, he supported it, and he was responsible for the mischiefs that might ensue from it.

Colonel *Barré* severely attacked the noble lord as to his candour and conscience. He said, the Bill had originated with the Lords, who were the Romish priests that would give his Majesty absolution for breaking his promise given by the royal proclamation in 1763; that they, in this Bill, had done like all other priests, not considered separately the crimes with which the Bill abounded, but had huddled them all up together, and, for dispatch, had determined to give absolution for the whole at once. He said, the noble lord might go on and support that or any sinful affair, as he was sure of getting absolution for all at last. He was certain, by the noble lord and his dependants' proceedings, that after their death people might say as they

did after the death of king Charles, "that by papers found in their closets, they appeared to have died in the Roman Catholic belief."

The chairman read the clause which mentions the number of the legislative council to be appointed, which is not to be more than 23, nor less than 17. Mr. *Dempster* objected to the number, and proposed 30. Lord North opposed the amendment, and on the question being put, it was rejected.

June 10. Sir Charles Whitworth reported the Bill, with the Amendments which had been made.

Mr. *Mackworth* moved, That a clause should be added to the Bill, "That in all trials relating to property and civil rights, where the value shall exceed a certain sum, either of the contending parties may demand a trial by jury, constituted according to the laws of England, and that the issue between the parties shall be determined by the verdict of such jury, and not otherwise." He recommended the clause as a security for the English in Quebec against the French laws.

Lord North opposed it. He recapitulated part of the evidence that had been produced at the bar, and said governor Carleton had informed the House, that the Canadians had a dislike to the English laws in general; that it was his opinion, that giving the Canadians their old system of laws would be the only means of making them a happy people; that Mr. Hey, the chief justice, had said it was his opinion, that the Canadians, at first, might have been brought to like the English laws, but since they had been so indulged, they expected now nothing less than a repeal of the whole of the laws by which they are governed at present; and that the noblesse of the country thought trial by jury was humiliating and degrading to them, as it subjected their property to the decision of barbers and taylorers; that Mr. Maseres had to be sure, said, that juries, he believed, would be liked under proper regulations, but the people of Canada did not choose to give their time and attendance for nothing; that Mons. Lotbiniere, on a question being put to him, whether he did not think the English laws the best for the Canadians in general? said, "I make no doubt but your laws are good and wise, and make you a happy people, but I do not think they are suited to every climate." His lordship afterwards entered much upon

the subject of juries, and said, the Canadians could have but a bad opinion of English juries, when a grand jury there had presented the Roman Catholics as a nuisance; he said, the Canadians, in their petition to the throne, had desired to have the whole of their ancient laws restored to them, which this Bill was meant to do; that in his opinion, the trial by jury was not necessary there; and that, by what he had been informed, the French laws were sufficient to protect property without it; that people had very industriously circulated a report that he had made a ministerial question of this; he would assure the House, upon his honour, he had not; that, after once fixing the government of Quebec in the hands of this nation, it was a matter of indifference to him what law or religion was established, so that it made the people happy.

Mr. Serjeant *Glynn* recapitulated the parts of the evidence which the noble lord had so ingeniously selected; he said, the noble lord had laid great stress on the imprudence of the grand jury presenting the Roman Catholics as a nuisance, and seemed to think, for that reason, they ought to have the trial by jury taken away; did the noble lord never recollect, that the British House of Commons had committed equally flagrant acts of injustice; and that, if the reason for abolishing held good in one point, it ought in the other; yet he sincerely hoped that that House would never be taken away; for, bad and corrupt as it was believed to be by ignorant people, it still remained some safeguard to the nation. He afterwards launched forth into the praise of juries, and mentioned many particular circumstances where juries had been found extremely beneficial to the welfare of the public; he stated the account of the seizing the papers of Mr. Wilkes, the general warrants, &c. He said, all state causes would be carried as desired, were it not for juries; he mentioned the affair of *Hampden* concerning Ship-money, and concluded with saying, that the 10th of June 1774 would be handed down to posterity as a day when the members of a British House of Commons preferred Popery and French laws to the established religion and laws of their own country; and, at the same time, that trials by jury, which their forefathers accounted a blessing, they deemed a curse.

Mr. Attorney General *Thurlow* said, he did not agree with the hon. and learned gentleman, that whoever was against the

allowing a trial by jury in that Bill thought the mode a curse; far from it; he had himself, in many cases, often thought the trial by jury a great blessing; yet it would be highly imprudent, unparliamentary, ridiculous, and absurd, to establish a clause at the end of the Bill (as that must be), which clause would entirely repeal that clause in the body of the Bill which allows the Canadians all their ancient laws; for would any body say, that trial by jury was one of their ancient customs, or assert that it was necessary? that, as for the petitioning Canadians, they only desired to have their ancient laws and customs restored to them; and that he by no means thought an optional jury anything like an English jury.

Mr. *Dunning* said, that as to the learned gentleman mentioning that he by no means approved of optional juries, had we not, every term, instances in the court of Chancery, where it was in the power of the Lord Chancellor to appoint a jury, if he thought proper? That, as to the establishing the French laws in Canada, who had we fit to administer them? Had not the two learned and respectable gentlemen at the bar, Mr. Hey and Mr. Maseres, informed the House, that they by no means thought themselves capable of learning the French law sufficiently to administer it with justice; and if such learned gentlemen had not abilities sufficient to understand it, sure he was, that no person the minister could produce was capable of undertaking the task, so as to do justice to the people and honour to himself. He said, the noble lord had been repeatedly called upon to declare the author of the Bill; let the author now stand forth and clear himself; but he would be bold to say, no man would dare to own a Bill which was meant to establish Popery. The noble lord had said, the Canadians had not desired to have a jury; could the noble lord say the Canadians had desired not to have a jury? He then entered fully into the nature of juries; said they were fit in all cases; that he had known many instances where juries had found for the crown, and that he could wish to see juries established throughout the world, as they were a check upon evil judges, and consequently if they were not so good judges of law, they were judges of fact; he said, as to the people of Canada being negligent of attending to serve on juries, it was the case here; there was scarce a term passed but jurymen were fined for non-attendance.

Mr. Solicitor General *Wedderburn* said, he could not agree with the learned serjeant, that the supporters of the Bill deserved the appellation of traitors to their country; that he had no objection to a jury hereafter being established there, but let it be left in the power of the crown, and if they saw it was necessary, they could at any time adopt it; but this was not the time, when the people were so much enraged against the proceedings of juries in that country; that as to the jury which Mr. Maseres had formed for that country, in the pamphlet he had published, he by no means thought it like an English jury, for it was to be formed of an odd number of people, thirteen, fifteen, or seventeen, and a majority of those people to be decisive, and the jurymen to have 5s. per day allowed them for their attendance. He said he never would allow that the Canadians were fit persons to serve upon a jury, they understood nothing of its form, and therefore were not judges enough how to act upon it; that as to cases of revenue, we had had two instances of their deciding different to an English jury; that a jury in England had found for the crown, they in Canada had twice, on the same trial, found for the defendant; and the witness at the bar, Mr. Hey, had informed the House that he had often been put to trouble, because he never could get the Canadians to give a special verdict.

Mr. *T. Townshend* spoke against the whole of the Bill, and much in praise of juries.

Mr. *Edmund Burke*, in a long speech, the first part of which was a keen, pointed vein of humour against the ministerial members, who just then came into the House in great numbers, said, he should not then have risen, only he thought he now seized a happy moment when he should carry his point, for the House had filled, all of a sudden, with members who had not heard any thing that had been said against the Bill, no not even from its being first agitated in the House; that they had now come with good English dinners in their bellies, which would, he trusted, make them good-humoured, and by being thus full of English meat, would undoubtedly be for English laws that could secure to them that meat; that he should have been afraid to attack such a body of power and wisdom as the other side of the House contained, had he not fortunately observed, that the noble lord,

and his two great oracles of wisdom and order, had all differed in their opinions; that finding them thus at variance, he thought the moment would be fortunate to his cause; the one was for a jury, only now was not the proper time; the other against any jury at all; and a third that it could not be inserted in the Bill. He then divided the people concerned in the Bill under three heads: first, the English merchants; second, the English subjects; and thirdly, the Canadians; he said they all deserved support; and, though the noble lord, and his supporters, had so industriously always made use of the number 360 as suitable to their cause, let them only recollect what all the evidence at the bar agreed in, which was, that the English subjects were possessed of upwards of two-thirds of the whole trade: did the noble lord think then that they were a body of people to be minded? That as to their numbers being small, the noble lord might recollect that there was an old vulgar saying, "that one Englishman was always worth two Frenchmen," that, in this case, he thought them preferable to fifty Frenchmen; that he would be willing to give a Canadian every indulgence in his power, but not grant that indulgence at the expence of the English; that if these noblesse were the only persons (as they appeared to be by the evidences at the bar) that were against the English laws, he would sacrifice them, and all the noblesse of England and other countries, but he would make the majority of the people happy. But the reason the noblesse did not like the English laws, was on account of the manner in which they had been represented to them; namely, that they were a string of religious and civil persecutions, which would entirely hinder them either from exercising their own religion, or from having any share in the government of their own country; that, remove those prejudices which the noblesse had imbibed from misrepresentations, and he would be bound to say they would not only admire our laws, but petition to have them; that, as to the noblesse hating juries, because it trusted their property to their inferiors, it was a principal reason why he would give the Canadians a jury, in order to protect their property from the arbitrary proceedings of the noblesse, who, in all countries, always wished to have the poor under their controul; that as to the English laws not being esteemed by the French, he could produce moun-

tains of books, written by Frenchmen, on the justness and excellency of our laws, where they approved of the trial by jury as one of the greatest excellencies our constitution produced; that the noble lord had invited him, and others, to come and offer their opinions, setting forth, that the Bill was imperfect, and he wished to alter it, yet he had not attended to what had been offered; that, in the committee, when he meant to propose a clause, the noble lord told him he might do it with propriety on the Report, and that there would be no other obstacle in his way, than that he would oppose it: he said he was greatly obliged to the noble lord for his candour, for it had spared him much trouble, having intended to offer several clauses, which he should, with great justice be called obstinate, were he now to attempt it, when he knew there was such a glorious triumvirate of power and wisdom formed against him; that he sincerely believed the French were in awe of us, yet he could not help thinking, that they must be astonished that a people, who had such powerful arms, should have such weak heads: he strongly recommended the state of the merchants as an object of the noble lord's attention, setting forth, that their property was always in a fluctuating state, and that they run great risks of their whole fortune, to benefit government as well as themselves.

On the question being put, it passed in the negative, by 83 against 40.

June 13. Mr. Cooper moved, that the Bill do pass.

Mr. *Charles Fox* opposed this, on the ground of its being a money Bill, and having originated in the other House; he moved, therefore, that the Journals of the House of Commons of the 5th of March, 1677, might be read; and the same being read accordingly, it appeared that they had rejected a Bill from the Lords, for the purpose of collecting customary tythes and other dues. He then argued from this precedent as a case exactly applicable and in point to the clause in the Bill, which provides for the security of the accustomed rights and dues of the Romish clergy; and appealed to the sense of the House if the present Bill, under such circumstances, was permitted to pass, whether it would not be, in fact, a relinquishment of the ancient and hitherto undisputed right of the House of Commons to originate Money Bills.

Mr. *Cooper*, in answer, quoted another precedent from the Journals in the year 1691 on the Bill for the recovery of small tythes, in which the Lords had made an amendment.

Mr. *Howard* observed, that Mr. *Cooper's* precedent did not apply, and that he knew of but one in the whole records of parliament that did, which was in the reign of Edward the 6th, on which the learned bishop who wrote the history of the Reformation remarked, that it was a direct infringement on the rights and privileges of the Reformation.

The question being at length put, That the Bill do now pass, the House divided. The Yeas went forth.

Tellers.

YEAS	{	Mr. Bradshaw - - -	}	56
		Mr. Cooper - - -		
NOES	{	Mr. Howard - - -	}	20
		Mr. Dempster - - -		

So it was resolved in the affirmative.

Debate in the Lords on the Booksellers' Copy Right Bill.] June 2. The order of the day being read for the first reading of this Bill,

Lord *Denbigh* stated, that the very principle of the Bill was totally inadmissible, and that it was not necessary to call witnesses, or to make any enquiry into a Bill that violated the rights of individuals, and affronted that House; and therefore moved, that the second reading be put off to that day two months.

Lord *Lyttelton* was for its being read a second time, and said, that he had letters from Dr. Robertson, Mr. Hume, &c. in favour of the Bill, and that the price the booksellers gave for Hawkesworth's Voyages was proof that they did believe they had a common law right. That this Bill was not to repeal that decision which the House had come to, but to relieve men who had laid out about 60,000*l.* in copy-right since the year 1769.

The *Lord Chancellor* observed, that the booksellers never could imagine that they had a common law right, for that all the injunctions were on the statute, except that of lord Hardwicke's in 1752, which lord Hardwicke granted on condition that the cause should be tried at common law, but that the booksellers would not venture on it; nor did they ever bring any action thereon till lately in the cause of Millar and Taylor. His lordship observed, that his late decision on the ground of the com-

mon law right had no reference to his own private opinion, for in that judgment he was necessarily governed by the prior one in the court of King's-bench, and was obliged to decree according thereto; but that he was satisfied there never did exist a common law right, and that the booksellers were not mistaken on that head: that the monopoly was supported among them by oppression and combination, and that there were none of their allegations, nor any part of the Bill, required further enquiry.

Lord *Camden* said, that they never could suppose a common law right, for that it was first supported by Star-chamber decrees; that when they obtained the Act of the 8th of queen Anne, they could not suppose it, for the advantage and security of that Act were far short of what the common law afforded them, had their claims been defensible on that ground; that on the expiration of the monopoly in 1731, they could not fall into such a mistake, for they applied to parliament for an extension of the monopoly in the years 1735, 6 and 7. That he really could not compliment those gentlemen who had espoused that opinion, by supposing that it was a case in the least doubtful, for that he had always considered it as the clearest and most obvious that could possibly be; that during his practice in the law, he always found the gentlemen of the profession universally against it. That it was asserted in the Bill, that it was a prevailing opinion that a common law right did exist; that if they meant that such an opinion prevailed among others than booksellers, he would venture to say there were fifty to one against it; and with respect to booksellers, he had ground to say, that many London booksellers were not of that opinion; that all the country booksellers, and those of Ireland, Scotland, and America, were against it: that he could not but think this attempt an affront on the House, for that they having determined between the contending parties, that one of them had usurped for forty years, the rights that did not belong to them; and that the other party had been injured and deprived of their rights. That this present proceeding contradicted the whole of that principle, and reversed the state of the parties: that it treated the latter as thieves and pirates, and the first as oppressed and injured, and deserving of having the possession of otherstaken from them for their particular emolument: that the monopolizing

booksellers had robbed others of their property; for that printing was a lawful trade, and, without all manner of doubt, therefore they had a property in it; consequently thus to deprive printers of the subject on which they might lawfully exercise their trade, was robbing them of their property: that they had maintained this monopoly by most iniquitous oppressions, and exercised it to the disgrace of printing; that they were monopolists, and if the line of justice and equity were drawn, it would be, that those who had deprived others of their right for a series of years, should make compensation to all those they had injured by such conduct. His lordship said further, that if the Bill had stated what particular set of men had been injured, and what loss they had sustained, they might have had some favour shewn them; but in the present state they could have none. He concluded with hoping that their lordships would reject the Bill.

The question was put for putting off the second reading for two months, when the House divided, Contents 21, Not-contents 11. The Bill was therefore dropt. Lord Mansfield did not attend the House on the occasion.

Debate in the Lords on the Commons' Amendments to the Quebec Government Bill.] June 17. The order of the day being read for taking into consideration the amendments made by the Commons to this Bill,

Lord *Chatham* rose and entered fully upon the subject of the Bill. He said it would involve a great country in a thousand difficulties, and in the worst of despotism, and put the whole people under arbitrary power; that it was a most cruel, oppressive, and odious measure, tearing up justice and every good principle by the roots; that by abolishing the trial by jury, he supposed the framers of the Bill thought that mode of proceeding, together with the Habeas Corpus, mere moonshine, whilst every true Englishman was ready to lay down his life sooner than lose those two bulwarks of his personal security and property. The merely supposing that the Canadians would not be able to feel the good effects of law and freedom, because they had been used to arbitrary power, was an idea as ridiculous as false. He said the Bill established a despotic government in that country, to which the royal proclamation of 1763 promised the protection of the English laws. Here the

noble lord read part of the proclamation, and then entered fully on the council and power vested in the governors, the whole mode of which, he said, was tyrannical and despotic: he was likewise very particular on the bad consequences that would attend the great extension of that province, that the whole of the Bill appeared to him to be destructive of that liberty which ought to be the ground-work of every constitution: ten thousand objections, he was confident, might be made to the Bill, but the extinction of the mode of trial above-mentioned, was a very alarming circumstance, and he would pronounce him a bold man who proposed such a plan.—When his lordship came to the religious part of the Bill, he directed his discourse to the bench of bishops, telling them that as by the Bill the Catholic religion was made the established religion of that vast continent, it was impossible they could be silent on the occasion. He called the Bill a child of inordinate power, and desired and asked if any of that bench would hold it out for baptism; he touched again upon the unlimited power of the governor, in appointing all the members, and who might be made up of Roman Catholics only. He also took notice of an amendment which had been made in the House of Commons, which was a new clause, repealing so much of the Act of Reformation of the 1st of Elizabeth as relates to the oath of supremacy, and substituting a common oath of allegiance in its place. This Act of Elizabeth, he said, had always been looked upon as one that the legislature had no more right to repeal, than the Great Charter, or the Bill of Rights.

His lordship stated, with great force, many objections to the clause giving to the French Canadians so advantageous a part of the fisheries of cod on the Labrador coast, to the great prejudice of the English fishermen on the banks of Newfoundland; considering the said fisheries of Labrador as a nursery of French Canadian seamen, to man, in case of a French war, any squadrons of France in those seas. He exposed the train of fatal mischiefs attending the establishment of Popery and arbitrary power in that vast and fertile region now annexed to the government of Quebec, and capable of containing (if fully peopled) not less than 30 millions of souls. He deduced the whole series of laws from the supremacy first revindicated under Henry the 8th down to this day, as fundamentals constituting a clear compact

that all establishments by law are to be Protestant; which compact ought not to be altered, but by the consent of the collective body of the people. He further maintained, that the dangerous innovations of this Bill were at variance with all the safe-guards and barriers against the return of Popery and of Popish influence, so wisely provided against by all the oaths of office and of trust from the constable up to the members of both Houses, and even to the sovereign in his coronation oath. He pathetically expressed his fears that it might shake the affections and confidence of his Majesty's Protestant subjects in England and Ireland; and finally lose the hearts of all his Majesty's American subjects. His lordship then said, that for these and other reasons, he gave his hearty negative to the Bill.

Lord *Dartmouth* said a few words in favour of the Bill.

Lord *Lyttelton* began by observing, that whatever fell from that noble earl, fell with such weight as to make the deepest impression on those who heard him: that from the solemn opposition he had given to that clause of the Bill, which excused the Canadians from the oath of supremacy, and imposed an oath of allegiance in the room of it, he was induced to give his reasons why he differed from lord *Chatham*; that so far from thinking with the noble lord last named, that no man who was a Protestant in his heart could give his consent to the passing of that clause, he affirmed that no true Protestant could refuse it his hearty concurrence, because the doctrinal principles of our holy religion, drawn from that pure and excellent source the Gospel of our Saviour, breathed forth a spirit of moderation, candour, and universal toleration to all religions that were not incompatible with the precepts of morality, and the general welfare and happiness of mankind. That to oblige Catholics to deny the supremacy of the Pope, was to compel them forcibly to abjure their religion, and in reality to commence a persecution against them; that opposition always grew and strengthened under the scythe of persecution, and that fanaticism was never formidable till it was oppressed. He said that the Canadians had, ever since the conquest of that country, behaved like good and peaceable subjects, that therefore they were justly entitled to a beneficial code of civil policy, and to a free exercise of their religion. That though he had the greatest reve-

rence for the Protestant faith, yet he had no less respect for the safety and good government of the state; that to force the inhabitants of Canada to renounce those errors which they had imbibed with their mother's milk, was to alter by violence the constitution of their mind, and by so doing to lay a foundation for resistance, which if it did not proceed to rebellion, would at least tend to alienate their minds from that allegiance which they had but just adopted, and which, under the mild government we exercised over them, would, he hoped, be daily strengthened and matured by time. That it was matter of triumph to this great and free country to treat the conquered subjects of France with more lenity, and to give them a better form of government than that which they had received from their mother country; that so far was he from believing that administration had predetermined in the closet the result of the proceedings of parliament, and that, as the noble earl expressed himself, "what must be, must be," that on the contrary, in every stage of the Bill they had shewed the greatest candour and desire of information, and in the House of Commons had actually adopted many ideas that had been thrown out by opposition, especially in regard to a very important part of the Bill, the definition of the limits of Canada. He said he approved of the Bill chiefly from its lenity and moderation, and that he deemed it sound policy for a conquering nation to lay the yoke lightly over the necks of those who were subjected to its dominion. That as the noble earl had observed how much Canada was inclined towards France, he thought nothing was more likely to win them over to England than to improve and meliorate their commercial as well as political situation, and above all to give them liberty of conscience in religious matters.

His lordship then observed the dark times of superstition were past, that the gloomy reign of persecution and priestcraft were now at an end, that science every where diffused had every where enlightened the human mind; he took notice that the noble earl had said, if the Bill passed you might take down the bells from your steeples, and the steeples from your churches; but that if even that was to happen, the evil would not be great, for that Christian men might meet in the faith of Christ and in Christian charity without these things, which to the pure of heart

and to the truly devout were of little importance; that they were the externals of religion, the internals of which were charity and universal benevolence; and that these principles gave birth to the clause which the noble earl had so uncharitably censured.

After lord Lyttelton had thus answered lord Chatham's objections to the religious tendency of the Bill, he proceeded to shew why he approved of the general policy of it: he said, he would not pretend to be sufficiently versed in the deep science of politics, to affirm whether or no a better system of legislation might not have been invented, but that he insisted upon the code contained in the Bill to be conformable to the genius of the country over which it is to be exercised; that it was consistent with the political notions of the inhabitants, and the form of government to which they had been accustomed; that forms of government must always be suited to the dispositions of the governed, and infinitely varied in different climates; that the mild constitution of this country would be rejected with contempt by the sons of despotism in Asia, and the excess of liberty happily spread over England would degenerate to an excess of licentiousness in Canada. As to the idea of the noble earl, that this political separation of Canada from the rest of America might be a means of dividing their interests, and that French Canada would in a future day be used as a proper instrument to quell British America, lord Lyttelton said, he was not apprehensive of these consequences; but that if British America was determined to resist the lawful power and pre-eminence of Great Britain, he saw no reason why the loyal inhabitants of Canada should not co-operate with the rest of the empire in subduing them, and bringing them to a right sense of their duty; and he thought it happy, that, from their local situation, they might be some check to those fierce fanatic spirits that, inflamed with the same zeal which animated the round-heads in England, directed that zeal to the same purposes, to the demolition of regal authority, and to the subversion of all power which they did not themselves possess; that they were composed of the same leaven, and whilst they pretended to be contending for liberty, they were setting up an absolute independent republic, and that the struggle was not for freedom, but power, which was proved from the whole tenor of their conduct.

The House divided. For the Bill 26; against it 7.

The King's Speech at the Close of the Session.] June 22. The King came to the House of Peers and put an end to the Session, with the following Speech to both Houses :

" My Lords, and Gentlemen,

" I have observed, with the utmost satisfaction, the many eminent proofs you have given of your zealous and prudent attention to the public service, during the course of this very interesting session of parliament.

" The necessity of providing some effectual remedy for the great and manifold mischiefs, both public and private, arising from the impaired state of the gold coin, induced me, at the opening of this session, to recommend that important object to your consideration. In the several measures you have taken for the redress of those evils, you have sufficiently manifested as well your regard to the general credit and commercial interests of the kingdom, as to the immediate ease and accommodation of my people.

" The very peculiar circumstances of embarrassment in which the province of Quebec was involved, had rendered the proper adjustment and regulation of the government thereof, a matter of no small difficulty. The Bill which you prepared for that purpose, and to which I have now given my assent, is founded on the clearest principles of justice and humanity; and will, I doubt not, have the best effects in quieting the minds and promoting the happiness of my Canadian subjects.

" I have long seen, with concern, a dangerous spirit of resistance to my government, and to the execution of the laws, prevailing in the province of Massachusetts's Bay in New England. It proceeded at length to such an extremity as to render your immediate interposition indispensably necessary; and you have accordingly made provision, as well for the suppression of the present disorders, as for the prevention of the like in future. The temper and firmness with which you have conducted yourselves in this important business, and the general concurrence

with which the resolution of maintaining the authority of the laws, in every part of my dominions, hath been adopted and supported, cannot fail of giving the greatest weight to the measures which have been the result of your deliberations. Nothing that depends on me shall be wanting to render them effectual. It is my most anxious desire to see my deluded subjects, in that part of the world, returning to a sense of their duty; acquiescing in that just subordination to the authority, and maintaining that due regard to the commercial interests of this country, which must ever be inseparably connected with their own real prosperity and advantage.

" Nothing material has happened since your meeting with respect to the war between Russia and the Porte; and it is with pleasure I can inform you, that the very friendly assurances which I continue to receive from the neighbouring powers, give me the strongest reason to believe, that they have the same good dispositions as myself to preserve the tranquillity of the rest of Europe.

" Gentlemen of the House of Commons,

" I thank you for the supplies which you have so cheerfully given; and I see with great satisfaction, that, notwithstanding the ample grants you have made for the several establishments, and the compensation which has been so properly provided for the holders of the deficient gold coin, you have been able to make a further progress in the reduction of the national debt.

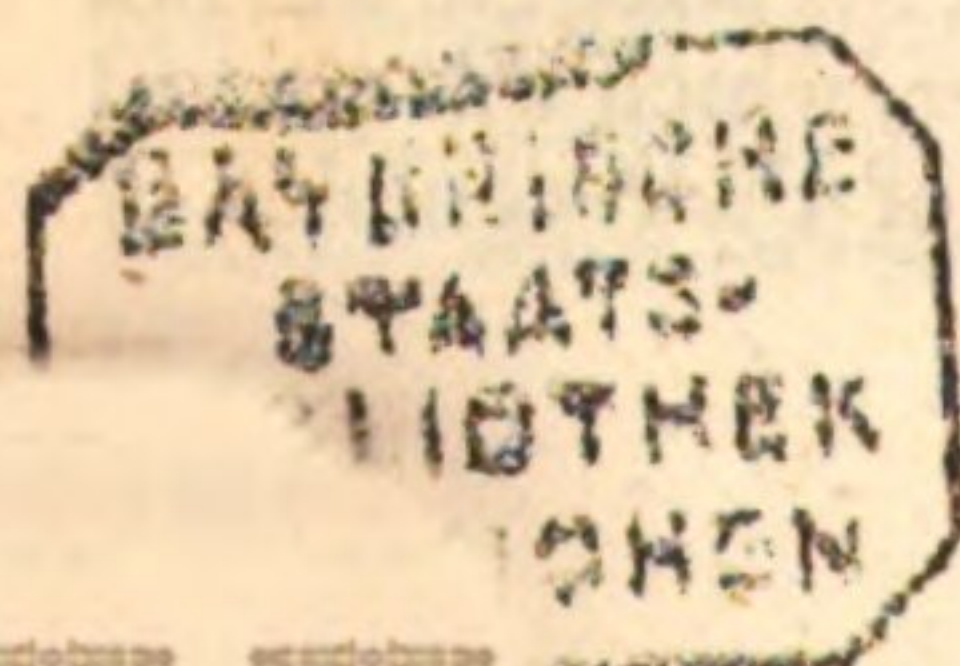
" My Lords, and Gentlemen,

" I have nothing to recommend to you, but that you would carry into your respective counties the same affectionate attachment to my person and government, and the same zeal for the maintenance of the public welfare, which have distinguished all your proceedings in this session of parliament."

The Parliament was then prorogued to the 4th of August. On the 30th of September, a proclamation was issued for dissolving the Parliament, and calling a new one; which met on the 29th of November 1774.

END OF VOL. XVII.

Printed by T. C. Hansard, Peterborough-Court,
Fleet-Street, London.



454

Cobbett, William, 1763-1835

Cobbett's parliamentary history of England from the Norman conquest, in 1066 to the year 1803

Bd.: 17

London 1813

Brit. 135 m-17

urn:nbn:de:bvb:12-bsb10279125-8